

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer BRADFORD C. PREITAUER, Trustee and DONNA H. PREITAUER, Trustee
Address 6058 Lokomaikai Place, Kapaa, Kauai, Hawaii 96746

Project Name(*): 6420 OPAEKAA
Address 6420 Opaekaa Road, Kapaa, Kauai, Hawaii

Registration No. 4761

Effective date: November 16, 2001

Expiration date: December 16, 2002

Preparation of this Report:

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

This report has not been prepared or issued by the Real Estate Commission or any other governmental 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.

X FINAL: (white) The developer has legally created a condominium and has filed complete 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: (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 expire on

(*) Exactly as named in the Declaration

FORM: RECO-30 286/986/189/1190/892/0197/0800

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 - disclosure 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 NOTICE:

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 ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A RESIDENTIAL DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY.

1. This Public Report does not constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it ensure that all county codes, ordinances and subdivisions requirements have necessarily been complied with.
2. This Project does not involve the sale of individual subdivided lots. The land area beneath and immediate adjacent to each unit as shown on the condominium map is designated as a limited common element and does not represent a legally subdivided lot. The dotted lines on the condominium map merely represent the approximate location of the limited common element assigned to each unit.
3. Facilities and improvements normally associated with County approved subdivisions may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION REGARDING THE FORGOING.

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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. The 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 of 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 spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: BRADFORD C. PREITAUER, Trustee and DONNA H. PREITAUER, Trustee Phone: (808) 822-1969
Name
6058 Lokomaikai Place
Business Address
Kapaa, Kauai, Hawaii 96746

Real Estate Broker: Donna Preitauer, dba Phone: (808) 822-1969
Ohana Properties (Business)
Name
6058 Lokomaikai Place
Business Address
Kapaa, Kauai, Hawaii 96746

Escrow: SECURITY TITLE CORPORATION Phone: (808) 245-6975
Name
4370 Kukui Grove Street, Suite 203
Business Address
Lihue, Kauai, Hawaii 96766

General Contractor: Bradford C. Preitauer, dba Phone: (808) 822-1969
Ohana Builders (Business)
Name
6058 Lokomaikai Place
Business Address
Kapaa, Kauai, Hawaii 96746

Condominium Managing Agent: Self managed by the Association of Unit Owners Phone: _____
Name (Business)
Business Address

Attorney for Developer: Michael H. Sakai, Esq. Phone: (808) 531-4171
Name
201 Merchant Street, Suite 902
Business Address
Honolulu, Hawaii 96813-2929

**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. 2001-158064
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]:

- 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. 3347
 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 manners which affect how the condominium project will be governed.

The Bylaws for this condominium re:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 2001-158065
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. Changes to Condominium Documents

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>N/A</u>

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

2. Developer:

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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

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

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

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed period 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 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: 6420 Opaekaa Road, Kapaa, Kauai, Hawaii 96746 Tax Map Key (TMK): (4) 4-2-06-157 (Lot 1)

Address TMK is expected to change because County of Kauai may assign new tax map numbers for each unit

Land Area: 2.696 square feet acre(s) Zoning: R-2 and Open

Fee Owner: BRADFORD C. PREITAUER, Trustee and DONNA H. PREITAUER, Trustee
6058 Lokomaikai Place, Kapaa, Kauai, Hawaii 96746

C. Buildings and Other Improvements:

1. New Building(s) Conversion of Existing Building(s) Both New Building(s) and Conversion

2. Number of Buildings: 2 Floors Per Building 1
 Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other other allied materials

4. Permitted Uses by Zoning:

	No of <u>Apts.</u>	Use Permitted <u>By Zoning</u>		No. of <u>Apts.</u>	Use Determined <u>By Zoning</u>
<input checked="" type="checkbox"/> Residential	<u>1</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Agricultural	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Other: <u>shed</u>	<u>1</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes No

5. Special Use Restrictions:

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

Pets: Domestic Pets are allowed.. Commercial breeding of animals is prohibited

Number of Occupants: _____

Other: _____

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>Unit A</u>	<u>1</u>	<u>3/2</u>	<u>1,716</u>	<u>480</u>	<u>garage</u>
<u>Unit B</u>	<u>1</u>	<u>0/0</u>	<u></u>	<u>12</u>	<u>shade structure</u>

Total Apartments: 2

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

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

Boundaries of Each Apartment:

The boundary of each unit is the exterior finished surfaces of the units' perimeter walls, roofs, foundations, windows and frames, doors, beams, post entries and cesspools, if any.

Permitted Alterations to Apartments:

Each unit owner may alter the structure and any other improvements located within their unit's limited common land area as provided in paragraphs 7.0 and 15.0 of the Declaration of Condominium Property Regime, as amended and restated.

7. Parking Stalls:

Total Parking Stalls: 4

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for each unit)	<u>2</u>	<u>2</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>4</u>
Guest Unassigned	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Extra for Purchase	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Other:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total Covered & Open	<u>4</u>	<u> </u>	<u>0</u>	<u> </u>	<u>0</u>	<u> </u>	<u>4</u>

Each Residential apartment will have the exclusive use of at least 2 parking stall(s).
 *Parking for each unit may occur anywhere within the limited common area of the each unit.

Commercial parking garage permitted in condominium project.

Exhibit A contain additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational 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 _____

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

Not Applicable. The residence (Unit A) and shade structure (Unit B) were both constructed in 2001.

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 B .

as follows:

2. Limited Common Elements: 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 B*.

as follows:

*Note: Land areas referenced herein are not legally subdivided lots.

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

described in Exhibit ____.

as follows:

Unit A	50%
Unit B	<u>50%</u>
	100%

The common interest was determined by allocating an equal percentage to both units.

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 9, 2001 and issued by Security 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 specific 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>
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F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

None. There are no warranties, express or implied.

2. Appliances:

None. There are no warranties, express or implied.

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

Construction of the residential Unit A and the shade structure Unit B were completed in September, 2001.

H. Project Phases:

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

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

IV. CONDOMINIUM MANAGEMENT

A. Management of the Common Elements: The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

- | | |
|---|--|
| <input type="checkbox"/> not affiliated with the Developer | <input type="checkbox"/> the Developer or the Developer's affiliate. |
| <input checked="" type="checkbox"/> self-managed by the Association of Apartment Owners | <input type="checkbox"/> other _____ |

B. Estimate of Initial Maintenance Fees:

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

See Page 20.

C. Utility Charges for Apartments:

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- | | |
|--|--|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Electricity (_____ Common Elements only _____ Common Elements & Apartments) |
| <input type="checkbox"/> Gas | (_____ Common Elements only _____ Common Elements & Apartments) |
| <input type="checkbox"/> Water | <input type="checkbox"/> Sewer <input type="checkbox"/> Television Cable |
| <input type="checkbox"/> Other _____ | |

NOTE: Each owner will be responsible for the hook-up and connection of his own utility service. Unit A is presently serviced by all utilities and has its own septic system.

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract
Exhibit D contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated September 27, 2001
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.

Other Declaration of Easements, Covenants and Restrictions dated October 18, 1991,
recorded as Document No. 91-155446.

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 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 a 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 as 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 Report issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime
- C) Bylaws of the Association of Apartment Owners
- D) House Rules, if any. (NONE)
- E) Condominium Map
- 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: Declaration of Easements, Covenants and Restrictions dated October 28, 1991 (see Exhibit G)

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

This Public Report is part of Registration No. 4761 filed with the Real Estate Commission on October 29, 2001.

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

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C. Additional Information Not Covered Above

NOT A SUBDIVISION. This is a condominium project which should not be confused with a subdivision. A purchaser of an apartment unit will be conveyed an apartment unit together with an "undivided" percentage interest in the common elements of the project. The entire parcel of land upon which the project is situated is designated as a common element. That portion of the common element which each purchaser has the exclusive right to use is called a limited common element or area, but is not a separate, legally subdivided lot.

MAINTENANCE FEES. Developer believes that there will be no maintenance fees. This is because all costs of every kind pertaining to each apartment and its respective limited common element, including but not limited to, cost of landscaping, maintenance, repair, replacement and improvement shall be borne entirely by the respective apartment owner. Based on the foregoing, there is no schedule of maintenance fees attached to this Public Report.

Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners to purchase fire insurance to cover the improvements of the Project, and that the premiums for the insurance be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses. Prospective purchasers should consult with their own insurance professionals to obtain an estimate for individual fire and hazard insurance. The insurance for Unit A is approximately \$426.00 per year. There is no estimate for Unit B because it is only a shade structure.

RESERVES. Developer discloses that no reserve study was done in accordance with Section 514A-83.6, Hawaii Revised Statutes, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. No reserves are necessary because there are no common elements that require any type of replacement or major repair.

SPECIAL POWER OF ATTORNEY. Each Purchaser of a Unit from the Developer will be required to execute and deliver to the Developer a Special Power of Attorney, the form of which is attached as Exhibit "F". The primary purpose of the Special Power of Attorney is to facilitate the application for and obtaining of building permits.

REAL ESTATE BROKER. Donna H. Preitauer, dba Ohana Properties, is the real estate broker for the condominium project. Donna H. Preitauer is a licensed Real Estate Broker (RB #13376). Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Donna H. Preitauer, dba Ohana Properties is a current and active Hawaii-licensed real estate company. Further, that Donna H. Preitauer has a principal interest in both the Development and her real estate company. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'."

ADDITIONAL RESTRICTIONS. In addition to the other easement and encumbrances described in Exhibit E, the Project is subject to the following:

- (a) An 8-foot wide future road widening reserve.
- (b) A Declaration of Easements, Covenants and Restrictions dated October 28, 1991. A copy of this Declaration is attached hereto as Exhibit G, however the recording flysheet, notary acknowledgment pages and Exhibit A containing the legal property description has been intentionally omitted.

- D. The developer declares subject to the penalties set forth in section 154A-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.

BRADFORD C. PREITAUER, Trustee and DONNA H. PREITAUER, Trustee

Name of Developer



BRADFORD C. PREITAUER, Trustee
Developer

SEP 27 2001

Date



DONNA H. PREITAUER, Trustee
Developer

SEP 27 2001

Date

Distribution:

Department of Finance, County of Kauai
Planning Department, County of Kauai

EXHIBIT "A"

Description of Apartments

The Project contains the following two (2) units:

a. Unit A. Unit A consist of one freehold estate consisting of one one-story residential structure. This unit consists of a kitchen, living room, pantry, three bedrooms, two bathrooms, garage and a lanai. The net living area of Unit A is approximately 1,716 square feet and the garage is approximately 480 square feet. The unit is constructed principally of wood, other allied building materials, asphalt shingle roof, and a concrete slab foundation. The land area surrounding Unit A as delineated and described in the Condominium Map is a limited common element for Unit A and is for the exclusive use of Unit A, subject however to the easements described in Paragraph 6.0 of the Declaration of Condominium Property Regime.

b. Unit B. Unit B consist of one freehold estate consisting of one shade structure having a net area of approximately 12 square feet together with the limited common land area under and surrounding Unit B. This unit has wire mesh walls and no improved floor. This unit is constructed principally of metal tubing. The land area surrounding Unit B as delineated and described in the Condominium Map is a limited common element for Unit B and is for the exclusive use of Unit B, subject however to the easements described in Paragraph 6.0 of the Declaration of Condominium Property Regime. There is sufficient area for at least two cars to park within the limited common land area of Unit B.

EXHIBIT "B"

Common Elements

The common elements of the Project and which the units have immediate access to include:

- a. The land in fee simple.
- b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, drainage, hot and cold water and like utilities which services more than one unit and any easements for such utility services, if any.
- c. The common driveway easement and any other common easements for ingress and egress, drainage and all common or shared installations for underground utilities including electricity, water, telephone, and cable television which run upon or under the common driveway easement, if any.
- d. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

Limited Common Elements

The land area delineated and designated in the Condominium Map as limited common elements are limited common elements of a unit and consist of the following:

- A. Unit A. The land area surrounding and under Unit A is a limited common element of Unit A and is for the exclusive use of Unit A and consist of approximately 0.536 acres.
- B. Unit B. The land area surrounding and under Unit B is a limited common element of Unit B and is for the exclusive use of Unit B and consist of approximately 2.180 acres.

EXHIBIT "C"

Encumbrances Against Title

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. Excepting and reserving therefrom the waters and all riparian and other rights in or to the Opaekaa Stream passing along the southerly boundary of said lot as contained Land Patent Grant Number 11,017 dated November 25, 1941, to which reference is hereby made.
3. Easement "A" for grading purposes, as per survey of Dennis M. Esaki, Registered Professional Surveyor, Certificate No. 4383, dated October 15, 1991.
4. Building setback line along Opaekaa Stream, as per survey of Dennis M. Esaki, Registered Professional Surveyor, Certificate No. 4383, dated October 15, 1991.
5. Restriction of vehicle access along Opaekaa Road, as per survey of Dennis M. Esaki, Registered Professional Surveyor, Certificate No. 4383, dated October 15, 1991.
6. An 8-foot wide future road widening reserve along Opaekaa Road. There shall be no new structures permitted within the reserve; new structures shall be set back from the reserve, as per survey of Dennis M. Esaki, Registered Professional Surveyor, Certificate No. 4383, dated October 15, 1991.
7. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions as contained in the Declaration of Easements, Covenants and Restrictions dated October 28, 1991, recorded in said Bureau, as Document No. 91-155446.
8. Condominium Map No. 3347, as it may be amended from time to time, to which reference is hereby made, recorded in the Bureau of Conveyances, State of Hawaii.
9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Condominium Property Regime for "6420 Opaekaa" dated September 27, 2001, recorded in said Bureau, as Document No. 2001-158064.
10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association of Apartment Owners for "6420 Opaekaa" dated September 27, 2001, recorded in said Bureau, as Document No. 2001-158065.
11. For real property taxes due and owing your attention is directed to the Director of Finance, County of Kauai.

EXHIBIT "D"

Summary of Sales Contract

The Sales Contract contains the purchase price, description and location of the apartment and other terms and conditions under which a Purchaser will agree to buy an apartment in the Project.

Among other things, the Sales Contract:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Purchaser will pay the purchase price.
2. Identifies the escrow agent and states that purchaser's deposit will be held in escrow until the Sales Contract is closed or canceled.
3. Requires that Purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Permits the Developer without the consent or approval of a purchaser to modify the Declaration, By-Laws Condominium Map or other documents provided that purchaser may cancel the Sales Contract and obtain a refund if such modification:
 - a. substantially and materially impairs the use and enjoyment of the apartment;
 - b. substantially and materially alters the arrangement of the rooms or usable space of an apartment or building;
 - c. renders unenforceable a purchasers' loan commitment;
 - d. increases the purchaser's share of common expenses or maintenance fees;
 - e. reduces the obligations of Developer of common expenses on unsold apartments.
5. Provides that the Developer is selling the apartments in "AS-IS WHERE-IS" condition. This means that the Developer is not making any warranties or representations with respect to the apartments and Project.
6. If purchaser dies (any one of them) prior to closing, Developer has the right to return purchaser's funds, less any escrow cancellation fees and cost, and cancel the Sales Contract.

7. Provides that the closing cost shall be paid as follows:

a. By purchaser: title insurance, drafting of any note and mortgage, purchaser notary fees, recording fees, one half of escrow fees, and also a start fee for common expenses, if any.

b. By Developer: drafting of apartment deed and Developer notary fees, conveyance taxes, preliminary title report, and one half of escrow fees.

8. Provides the following remedies, in the event of default under the Sales Contract:

by purchaser:

- a. Developer may bring an action against purchaser for breach of contract;
- b. Developer may retain initial deposit;
- c. Purchaser shall be responsible for expenses incurred.

by Developer:

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

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

9. Provides that purchaser may not assign his/her interest in the Sales Contract without the prior written consent of Developer.

The Sales Contract contains various other provisions which purchaser should become acquainted with.

EXHIBIT "E"

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Escrow is SECURITY TITLE CORPORATION. Under the Escrow Agreement dated September 27, 2001, these things will or may happen:

(a) Developer or Escrow will let purchasers know when payments are due and all monies received from a purchaser will be deposited in Escrow. Any interest earned on the deposits will belong to Developer.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement specifies when purchaser funds may be disbursed upon closing of a sale. The conditions include:

i) Escrow receives the purchasers' signed "Receipt for Public Report(s) and Notice of Right to Cancel";

ii) Escrow receives a certification from the Developer that the Sales Contract is effective and that the rescission right requirements in favor of purchasers have been complied with by the Developer; and

iii) The apartment deed conveying the unit to the purchaser has been recorded in the Bureau of Conveyances.

(d) The Escrow Agreement says under what conditions a refund will be made to a purchaser. Refunds can occur under the following situations:

i) If Purchaser elects to cancel the transaction in accordance with the "Receipt for the Final Public Report and Notice of Right to Cancel". The Receipt provides that purchasers may cancel the Sales Contract and purchaser is the Receipt is mailed or sent by telegram to Developer before (1) the apartment unit is conveyed to purchaser or (2) midnight of the 30th day after delivery of the Public Report(s) to me, whichever is earlier.

ii) The Developer and purchaser agree to terminate the Sales Contract;

iii) if the Developer exercises any right to cancel the transaction which it may have reserved.

NOTE: If a transaction is cancelled, the purchaser must return all documents to the Developer.

(e) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract. If a purchaser defaults, all deposits previously placed into Escrow will be forfeited by purchaser and Escrow may release such funds to Developer. See paragraph 11 of Escrow Agreement.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.

EXHIBIT "F"

6420 OPAEKAA
SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

THAT I, _____, whose address is _____, have made, constituted and appointed and by this act and these presents, do make, constitute and appoint as my agent _____, whose address is _____, and their successor in interest to the grantee of unit _____ in the 6420 OPAEKAA Condominium project, TMK (4) 4-2-06-157, my true and lawful attorney with full power to act in my stead and in my behalf, to make and do the following, to wit:

To apply for and obtain a building permit for a single family dwelling located at Unit No. _____, _____, TMK No. (4) 4-2-06-157, which is further described in Exhibit "A", upon such terms and conditions as my attorney shall think fit; to execute any and all applications, certificates, receipts, and other documents or instruments necessary or convenient for such purpose, including any other documents or agreements that may be required by any governmental authority or agency having the authority over the issuance of building permits.

The power of our attorney to act in accordance with the foregoing shall not be affected by any disability or incapacity suffered by me subsequent to my execution of this instrument. All acts done by my attorney pursuant to this power during any period of disability or incompetency shall have the same effect and inure to the benefit of and bind me, my heirs, devisees and personal representatives as if I were alive, competent and not disabled.

GIVING AND GRANTING to my said Attorney full power and authority as set forth above, to do and perform any and all acts and deeds as aforesaid as I might or could do if personally present, the powers enumerated above being in said of the special powers herein granted and not in limitation thereof; and hereby ratifying all that my said Attorney shall lawfully do or cause to be done by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set our hands this ____ day of _____, 20____.

STATE OF HAWAII)
ISLAND AND COUNTY OF KAUAI) ss.

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

Notary Public, State of Hawaii

My commission expires:

EXHIBIT "G"

Declaration of Easements, Covenants and Restrictions

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, JINTA PARTNERSHIP, a Hawaii registered general partnership, with its principal place of business in Lihue, Kauai, Hawaii, and post office address at P. O. Box 767, Lihue, Hawaii 96766, hereinafter called "Declarant," is the owner of all that certain parcel of land (being all of the land(s) described in and covered by Land Patent Grant Number 11,017 issued to Hideo Nonaka) situate, lying, and being at Wailua, District of Lihue, Island and County of Kauai, State of Hawaii, being Lot 13, same being portion of original Lot 12, and all of original Lot 13-C, of the "WAILUA HOMESTEADS, FIRST SERIES";

WHEREAS, said Lot 13 has been subdivided into the Nonaka Subdivision Phase I, consisting of Lots 1 through 15, inclusive, easements A through G, inclusive, as described in Exhibit "A" attached hereto and incorporated herein by reference;

WHEREAS, Declarant intends to develop, sell and convey Lots 1 to 13 for residential use and desires to impose upon said lots mutual and beneficial easements, restrictions, covenants and conditions under a plan of development and improvement for the benefit of all lots in said Nonaka Subdivision Phase I;

WHEREAS, It is Declarant's intent to exclude Lots 14 and 15 from the provisions of this Declaration;

NOW, THEREFORE, Declarant does hereby declare that Lots 1 to 13, inclusive, of said Nonaka Subdivision Phase I, as more particularly described in said Exhibit "A" attached hereto, exclusive of roadway or street lots shown or described therein, are and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following declarations:

1. Residential Use Only. All lots shall be utilized for residential purposes only. If the lots are agriculturally zoned, agricultural uses are permitted, except as specifically prohibited herein.

2. Used Construction Materials and Buildings: Roofing Material. No used or secondhand lumber or other material shall be used or incorporated in the construction of any improvements on any lot, nor shall there be placed or maintained upon any lot any used buildings which have been moved from another location. The use of the following types of roofs is prohibited: (1) Mineral surfaced asphalt felt roll roofing, and (2) metal roofing.

3. Set Backs. Certain lots in the subdivision are affected by the flood way and/or are located within the flood fringe, as shown on maps located at the Kauai County Department of Public Works and Planning Department. No structures or improvements shall be constructed on any lot in the subdivision without verifying the location of the flood way and flood fringe and obtaining governmental approvals for such structures or improvements.

4. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which

may be or may become an annoyance or nuisance to the neighborhood.

5. Maintenance of Lot. The owner of each lot shall at all times maintain said lot in a good, neat and clean condition so as to prevent it from becoming overgrown with grass and weeds, unsightly, unsanitary or a hazard to health. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition.

6. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuildings shall be used on any lot at any time as a residence, either temporarily or permanently.

7. Animals, livestock and poultry. No pigs, chickens, bees, animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that a maximum total of three (3) dogs, cats, or other common household pets may be kept; provided, however, that they are not kept, bred, or maintained for any commercial purpose.

8. Lot Construction. No part of any lot shall be filled, excavated or otherwise altered as to grade in such manner as to adversely affect drainage of any adjoining lot.

9. Grading and Fill on Lots. Certain lots have been graded in order to facilitate the construction of the subdivision drainage facilities, roads, water, pipelines and other utilities, and in order to improve the buildable area of the lot. Declarant further discloses that in the course of the grading work on the lot, fill material has been placed and compacted on certain lots. Declarant hereby discloses that the fill material placed on lots 1, 2, and 9 ~~may not be suitable to support structural~~ improvements and affected lot owners should not construct any improvements on the fill areas without confirming the location of the fill areas and undertaking their own independent investigation of soil conditions. Fill was placed in the following locations:

- a. Lot 1 - In the southerly 2/3 portion of the lot;
- b. Lot 2 - In the southerly boundary of the lot; and,
- c. Lot 9 - In the rear portion (westerly portion) of the lot.

10. Easement A. Lots 1 through 14 are affected by and are subject to Easement "A", as is described in said Exhibit "A" and the maps on file at the County of Kauai Public Works Department. Easement "A" is declared to be a perpetual easement for grading purposes in favor of the Declarant, its successors and assigns. Within said easement no structure, planting (other than ground cover), or material shall be placed, grown or permitted to remain therein which may damage or interfere with the purpose of the easement.

11. Easement Within Lots.

- a. Lot 2 is subject to ~~Easement B~~ described in said Exhibit "A". Easement B is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises ~~in favor of Lots 3, and 9.~~

b. Lot 3 is subject to Easement C described in said Exhibit "A". Easement C is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 1, 2, and 9.

c. Lot 4 is subject to Easement D described in said Exhibit "A". Easement D is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 5, 10, and 11.

d. Lot 5 is subject to Easement E described in said Exhibit "A". Easement E is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 4, 10, and 11.

e. Lot 6 is subject to Easement F described in said Exhibit "A". Easement F is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 7, 8, 12, and 13.

f. Lot 7 is subject to Easement G described in said Exhibit "A". Easement G is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 6, 8, 12, and 13.

Direct access to Opaekea Road and to Puupilo Road shall not be permitted from Lots 1, 8, 9, 10, 11, 12, and 13, but shall only be permitted through the easements described in this paragraph 10.

12. Road widening reserve. An eight (8) foot wide strip of land along the subdivided lots fronting Opaekea Road and a two (2) foot wide strip of land along the subdivided lots fronting Puupilo Road is hereby established as and for a future road widening reserve. No new structures shall be permitted within the reserve; new structures shall be setback from the reserve.

13. Wastewater Disposal. The subdivision is NOT currently served by a sewer system. Since the Wailua Homesteads area is not serviced by any wastewater treatment works, the use of individual wastewater systems may be allowed, provided that the minimum requirements of Chapter 62, Wastewater Systems, Title 11, Administrative Rules, State of Hawaii, are satisfactorily complied with. The Department of Health will not be approving any cesspools in the Nonaka Subdivision, ~~Phase I~~ however, other individual wastewater treatment systems, such as septic tanks, may be utilized subject to approval of the Department of Health.

14. Binding Nature of Declaration. Each and all of the foregoing covenants and restrictions shall run with the land, and jurisdiction may be taken in equity at suit of the Declarant, its successors or assigns, or of any other grantee of any of said lots within said subdivision, to restrict or prevent by injunction, mandatory or restraining, any violation of any of said covenants upon the part of any lot owner to be observed and performed, without prejudice to the right of the Declarant, its successors or assigns, or any other grantee, to adopt or pursue any other remedy thereafter for the same breach or failure, or for any subsequent breach or failure, or to take any action to recover damages for any such breach or failure. No deed, mortgage, lease or other instrument of conveyance affecting any lot of Nonaka Subdivision Phase I shall be made or delivered unless such deed, mortgage, lease or other instrument of

conveyance shall contain or be subject to the same restrictive covenants as in this Declaration set forth, including this covenant.

15. Duration of Restrictive Covenants. The covenants herein shall run with the land and be binding on all lot owners in Nonaka Subdivision Phase I, their respective heirs, successors, assigns, and all persons claiming under them, for a period of thirty (30) years from the date this Declaration is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of a majority of the lots has been recorded, agreeing to change said covenants in whole or in part, provided that such modification or change is not violative of any governmental rule, law, or regulation, nor violative of any condition imposed upon the grant of subdivision approval by the County of Kauai.

16. Severability. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants, which shall remain in full force and effect.

17. No Effect on Road Lots. The covenants herein shall not be applicable to any road lot nor to all or any portion of a lot which may hereafter be used for public road purposes, or which may be sold or conveyed to any public utility for public utility purposes or to the County of Kauai or the State of Hawaii for public purposes.

18. Captions. All captions in this Declaration are for convenience only and do not in any way limit or amplify the provisions hereof.

19. Gender and Number. The use of any gender herein shall include all genders, and the use of any number shall be construed as singular or plural, as the paragraph may require.

IN WITNESS WHEREOF, Declarant has executed this Declaration on the 28th day of October, 1991.

JINTA PARTNERSHIP, a Hawaii
registered general partnership

By Hides Nonaka
Its General Partner

By Takas Nonaka
Its General Partner

By Iwao Nonaka
Its General Partner