

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer PIERRE J. FLUYT and ERIKA FLUYT
Address P.O. Box 1301, Kealahou, Hawaii 96750
Project Name(\*): KAUHOLA INDUSTRIAL BUILDING
Address: 73-5600 Kauhola Street, Kailua-Kona, Hawaii 96740

Registration No. 4851

Effective date: June 18, 2002

Expiration date: July 18, 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 any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

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

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

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

Type of Report:

PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. 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. [ ] 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:

**NOTE:**

The Developer has obtained a performance bond issued by a material house in an amount of 100% of the total cost of construction. Pursuant to Real Estate Commission requirements, the following restrictions are imposed on the developer's use of purchasers' funds:

- 1) All purchasers' funds shall be placed in an escrow account;
- 2) Purchasers' funds shall not be disbursed to pay for constructions costs or other expenses of the project until both the completion of the apartment to be conveyed and the closing of the sale; and
- 3) If closing is to occur prior to the expiration of the applicable mechanic's lien period, the developer shall:  
(i) provide the purchaser with an owner's title insurance policy with a mechanic's lien endorsement that protects the purchaser against mechanic's and materialman's liens; and (ii) provide the Real Estate Commission with a release by the general contractor of the contractor's lien rights.

## TABLE OF CONTENTS

	page
Preparation of this Report .....	1
Expiration Date of Reports .....	1
Type of Report .....	1
Disclosure Abstract .....	2
Summary of Changes from Earlier Public Reports .....	2
Table of Contents .....	3
General Information on Condominiums .....	4
Operation of the Condominium Project .....	4
I. PERSONS CONNECTED WITH THE PROJECT .....	5
Developer                      Attorney for Developer                      General Contractor	
Real Estate Broker                      Escrow Company                      Condominium Managing Agent	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration .....	6
B. Condominium Map (File Plan) .....	6
C. Bylaws .....	6
D. House Rules .....	7
E. Changes to Condominium Documents .....	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer .....	8
B. Underlying Land .....	9
C. Buildings and Other Improvements .....	10
D. Common Elements, Limited Common Elements, Common Interest .....	13
E. Encumbrances Against Title .....	14
F. Construction Warranties .....	15
G. Status of Construction .....	16
H. Project Phases .....	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements .....	17
B. Estimate of Initial Maintenance Fees .....	17
C. Utility Charges for Apartments .....	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission .....	18
B. Buyer's Right to Cancel Sales Contract .....	18
C. Additional Information Not Covered Above .....	20
D. Signature of Developer .....	21
EXHIBIT A: Use Restrictions	
EXHIBIT B: Alterations to Apartments	
EXHIBIT C: Common Elements	
EXHIBIT D: Encumbrances Against Title	
EXHIBIT E: Estimated Initial Maintenance Fees and Maintenance Fee Disbursements	
EXHIBIT F: Summary of Sales Contract	
EXHIBIT G: Summary of Escrow Agreement	

## **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 owner/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 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: PIERRE J. FLUYT Phone: (808) 329-1131
ERIKA FLUYT (Business)
Name
P. O Box 1301 Kealakekua, HI 96750
Business Address

Names of officers or general partners of developers who are corporations or partnerships:
N/A

Real Estate Broker: None (see page 20) Phone: (Business)
Name
Business Address

Escrow: First Hawaii Title Corporation Phone: (808) 329-8227 (Business)
Name
75-5722 Kuakini Hwy, Suite 210
Kailua-Kona, Hawaii 96740
Business Address

General Contractor: Bennett Builders, Ltd. Phone: (808) 326-1137 (Business)
Name
73-4776 Kanalani Street, Bay 1
Kailua-Kona, Hawaii 96740
Business Address

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

Attorney for Developer: Wallace H. Gallup, Jr. Phone: (808) 329-5014 (Business)
Name
75-5591 Palani Rd., Suite 3007
Kailua-Kona, HI 96740
Business Address

**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, IIRS), 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. 2002-001358  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court      Document Number \_\_\_\_\_

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. 3387  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

- C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances      Document No. 2002-001359  
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:

	Minimum Set by Law	This Condominium
Declaration (and Condo Map)	75%*	<u>100%</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:

A. Upon completion of the Project, the Developer may amend the Declaration and the Condominium Map (if necessary) to file the "as built" verified statement required by Section 514A-12 of the Condominium Property Act.

B. Until all of the apartments have been conveyed, the Developer may amend the Declaration, the Bylaws and/or the Condominium Map to make such amendments as may be required by law, by the Real Estate Commission, by the title insurance company, by a mortgage lender, or by any governmental agency (including the VA, HUD, FNMA and/or FHLMC), provided that no such amendments change the common interest appurtenant to an apartment or substantially change the design, location or size of an apartment.

C. Until the "as built" verified statement is filed, the Developer may amend the Declaration and the Condominium Map to (i) reflect alterations in any apartment which has not been sold; and (ii) reflect minor changes in any apartment or in the common elements which do not affect the physical location, design or size of any apartment which has been sold.

**III. THE CONDOMINIUM PROJECT**

**A. Interest to be Conveyed to Buyer:**

Fee Simple: Individual apartments and the common elements, which includes the underlying land, will be in fee simple.

Leasehold or Subleasehold: Individual apartments and the common elements, which includes 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 Subleaseholds:

Buyer's sublease may be cancelled 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 Subleasehold:

**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 provisions.

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**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 73-5600 Kauhola Street Tax Map Key: (3)7-3-51-86  
Kailua-Kona, Hawaii 96740 (TMK)

Address  TMK is expected to change because N/A

Land Area: 52,139  square feet  acre(s) Zoning: Limited Industrial (ML)

Fee Owner: Pierre J. Fluyt and Erika Fluyt  
 Name  
P. O. Box 1301, Kealakekua, HI 96750  
 Address

Sublessor: N/A  
 Name  
 Address

**C. Buildings and Other Improvements:**

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

2. Number of Buildings: 1 Floors Per Building 1 (with Mezzanine in Unit 2)

Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other Metal, glass and other customary building materials

4. Permitted Uses by Zoning:

	No. of <u>Apts.</u>	Use Determined <u>By Zoning</u>		No. of <u>Apts.</u>	Use Determined <u>By Zoning</u>
<input type="checkbox"/> Residential	_____	<input 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 checked="" type="checkbox"/> Industrial	<u>3*</u>	<input checked="" 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 type="checkbox"/> Other: _____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes  No

\*The apartments are subject to division and/or consolidation by an apartment owner pursuant to Section L.4 of the condominium declaration (see Exhibit B to this public report)

5. Special Use Restrictions:

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

Pets: \_\_\_\_\_

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

Other: See Exhibit A

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: Unit 2:1 Trash Chutes: \_\_\_\_\_

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area(s)*</u>	<u>Net Other Area</u>
<u>Unit 1**</u>	<u>1</u>	<u>--</u>	<u>5,000 sq. ft.</u>	<u>--</u>
<u>Unit 2**</u>	<u>1</u>	<u>--</u>	<u>5,000 sq. ft.</u>	<u>--</u>
<u>Unit 3**</u>	<u>1</u>	<u>--</u>	<u>5,000 sq. ft.</u>	<u>1,500 sq. ft. (Roofed Area )</u>

Total Apartments 3

**\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls. Other documents and maps (including the Condominium Map) may give floor area figures which differ from those above because a different method of determining the floor area may have been used.**

**\*\* The apartments are subject to division and/or consolidation by an apartment owner pursuant to Section L.4 of the condominium declaration (see Exhibit B to this public report)**

Boundaries of Each Apartment:

Each Apartment includes all walls, columns and partitions which are not load-bearing within the Apartment's perimeter walls, the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames, windows and window frames along the perimeters, the air space within the perimeters, all fixtures originally installed in the Apartment, and all pipes, plumbing, wires, conduits and other utility or service lines and facilities servicing only the Apartment. The Apartments shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the undecorated or unfinished surfaces of the doors, door frames and window frames along the perimeters, the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Apartment, or any pipes, shafts, wires, conduits or other utility or service lines running through an Apartment which are utilized for or serve more than one Apartment, all of which are deemed common elements as provided in this Declaration.

Permitted Alterations to Apartments:

See Exhibit B.

Apartments designated for Owner-Occupants Only: Not Applicable

7. Parking Stalls:

Total Parking Stalls: 45

	<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	_____	_____	_____	_____	_____	_____	<u>0</u>
Guest	_____	_____	_____	_____	_____	_____	_____
Unassigned	_____	<u>33</u>	_____	<u>10</u>	_____	_____	<u>43</u>
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____
Other:	_____	<u>2</u>	_____	_____	_____	_____	<u>2</u>
Total Covered & Open	<u>35</u>	_____	<u>10</u>	_____	<u>0</u>	_____	<u>45</u>

Each apartment will have the right to use the parking stalls on an unassigned basis, subject to such rules as the Board may adopt concerning parking stall 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
- 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. Condition 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)

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   C  .

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 may use them, as described in the Declaration are:

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

as follows:

1. Mailboxes: The mailbox assigned to an Apartment is a limited common element apartment to that Apartment.

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. 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:

Apartment No.	Undivided Common Interest
1	0.3000 (30.00%)
2	0.3000 (30.00%)
3	0.4000 (40.00%)

The common interests are subject to adjustment upon the division or consolidation of apartments pursuant to Section L.4 of the condominium declaration. See Exhibit B to this public report.

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 D describes the encumbrances against the title contained in the title report dated April 24, 2002 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.

[X ] There are no blanket liens affecting title to the individual apartments. [See below]

[ ] 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. Buyer's interest will be affected only 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>
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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:

The Developer's makes no warranties itself; however, the Developer will assign to each apartment owner any and all warranties given the Developer by the general contractor for the project and by any subcontractors or materialmen, and the Developer will cooperate with each apartment owner during the effective period of any such warranties in asserting any claims on such warranties.

2. Appliances:

The Developer makes no warranty as to appliances or other consumer products installed in any apartment or in the common elements. If there are any applicable manufacturer's or dealer's warranties relating to such appliances or other consumer products, the Developer will cooperate as necessary to assign and pass on to each apartment owner the benefit of such warranties.

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

Construction of the Project commenced in September, 2001, and was completed on April 11, 2002.

**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:

not affiliated with the Developer  the Developer or the Developer's affiliate.  
 self-managed by the Association of Apartment Owners  other \_\_\_\_\_

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, 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.

Exhibit E contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

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

None  Electricity ( Common Elements only  Common Elements & Apartments)  
 Gas ( Common Elements only  Common Elements & Apartments)  
 Water  Sewer  Television Cable  
 Other Telephone (Alert Alarm Fire)

## 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 F contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 15, 2001  
Exhibit G contains a summary of the pertinent provisions of the escrow contract.
- 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 buyers. 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, 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 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 given 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.
- D) House Rules.
- 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: Master Declaration of Restrictive Covenants recorded as Document No. 91-041779 and an amendment thereto recorded as Document No. 128138, a Declaration of Restrictive Covenants recorded as Document No. 93-128141 and a Declaration of Restrictive Covenants-Kaloko Light Industrial Park Unit II recorded as Document No. 99-191917

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 a part of Registration No. 1851 filed with the Real Estate Commission on May 15, 2002.

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**

1. The Project, and each Apartment in the Project, is subject to the terms and provisions of a Master Declaration of Restrictive Covenants recorded as Document No. 91-041779 and an amendment thereto recorded as Document No. 128138, a Declaration of Restrictive Covenants recorded as Document No. 93-128141 and a Declaration of Restrictive Covenants-Kaloko Light Industrial Park Unit II recorded as Document No. 99-191917 (the "community declarations"), which cover the Project land and other property in the vicinity of the Project land (the "Kaloko Light Industrial Park"). A copy of these Declarations are on file with the Real Estate Commission and available for the purchaser's review. Among other things, the community declarations provide:
  - (a) For the establishment of a community association;
  - (b) That every owner of a "Lot" (as described in the community declaration, including the Project land) in the Kaloko Light Industrial Park shall be a member of the community association by virtue of such ownership;
  - (c) That the community association will operate, maintain and repair certain common property, including an access road, common utility lines and other improvements, and may make rules and regulations governing use of the common property;
  - (d) That improvements to property within the Kaloko Light Industrial Park (including the Project) are subject to design restrictions which include landscaping requirements;
  - (e) That the community association has the power and authority to have levied against each "Lot", and to have collected from the owner thereof, association fees, charges and other assessments, which may be separate from and in addition to any and all assessments an apartment owner is obligated to pay to the condominium association pursuant to the Project documents;
  - (f) That liens may be created on the Project land for non-payment of assessments made by or on behalf of the community association;
  - (g) That each Lot is subject to use rights and restrictions, as set forth in the community declaration; and

Prospective purchasers should carefully review the community declarations and determine its effect, if any, on the purchaser's ownership of an apartment in the Project.

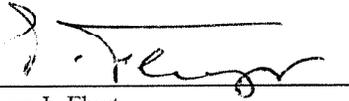
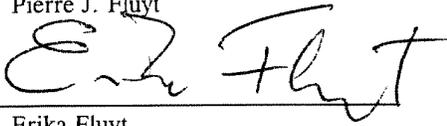
**Disclosure regarding selection of Real Estate Broker**

The Developer does not presently intend to use a broker for the sale of apartments in the Project. In the event the Developer chooses to use a 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.

- D. 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.

PIERRE J. FLUYT AND ERIKA FLUYT

Name of Developer

 _____ Pierre J. Fluyt	<u>4/26/02</u> Date
 _____ Erika Fluyt	<u>4/26/02</u> Date

Distribution:

Department of Finance, County of Hawaii  
Planning Department, County of Hawaii

**EXHIBIT "A"**

**USE RESTRICTIONS**

The Apartments shall at all times be occupied and used only for limited industrial purposes in accordance with applicable laws, this Declaration, the Bylaws and the Community Declaration, and for no other purposes. Apartments 1 and 2, or any portion thereof, shall not be used to conduct a steel fabrication business and/or to conduct a sewage treatment services business at any time while INCOM, Inc., a Hawaii corporation, is the owner or a tenant of Apartment 3, without the prior written consent of the Owner of Apartment 3. Apartments 2 and 3, or any portion thereof, shall not be used for the conduct of an air conditioning fabrication business at any time while GORDON SHEET METAL, INC., a Hawaii corporation, is the owner or a tenant of Apartment 1, without the prior written consent of the Owner of Apartment 1. Apartments 3 and 1, or any portion thereof, shall not be used for the conduct of a cabinet making business at any time while STEVE ALTERMAN CABINETS is the owner or a tenant of Apartment 2, without the prior written consent of the Owner of Apartment 2.

**EXHIBIT "B"**

**ALTERATIONS TO APARTMENTS**

Section L.2 of the condominium declaration provides as follows:

Any alterations or additions solely within an Apartment or within a limited common element appurtenant to and for the exclusive use of an Apartment, shall require only the written approval thereof, including the plans thereof, by the Owner(s) of such Apartment, by the holder(s) of a first mortgage liens affecting such Apartment (if the lien holder requires such approval), by the appropriate agencies of the State of Hawaii and the County of Hawaii if such agencies so require, and by the Board (which approval shall not be unreasonably or arbitrarily withheld or delayed). Upon completion of such alterations or additions, the Apartment Owner shall duly Record and file of record an amendment to this Declaration together with the approved plans showing only such alterations or additions within the Apartment. Such amendment to this Declaration need only be executed by the Apartment Owner and the first mortgagee(s), as may be required.

Section L.4 of the condominium declaration provides as follows:

Any provision of this Section L to the contrary notwithstanding, Apartment Owners shall have the right to divide and/or consolidate their respective Apartments as provided in and pursuant to this Section L.4.

(a) Subject to the requirements of subsection L.4(c) below, an Apartment Owner may make alterations or additions within such Owner's Apartment and convert the Apartment into two or more Apartments with modified floor plans. In such event, the common interest appurtenant to the Apartment to which such alterations or additions were made (the "affected Apartment") shall be reapportioned among the Apartments resulting from such alterations or additions (the "modified Apartments") in proportion of the relative net floor areas of the modified Apartments. Further in such event, limited common elements appurtenant to the affected Apartment, and parking stalls allocated to the affected Apartment in accordance with Section P.2 of this Declaration, shall be assigned or reallocated to the modified Apartments in the reasonable discretion of the Owner of the affected Apartment.

(b) Subject to the requirements of subsection L.4(c) below, an Apartment Owner owning two or more Apartments separated only by common elements which are walls or doors may alter or remove all or portions of such intervening walls or doors and make other alterations or additions within such Apartments and convert the Apartments into a single Apartment or into two or more Apartments with modified floor plans. In such event, and if the net interior floor areas of the Apartment(s) resulting from such removal, alterations or additions (the "modified Apartments") are not the same as the net interior floor areas of the Apartments to which such removal, alterations or additions were made (the "affected Apartments"), then the aggregate total common interests appurtenant to the affected Apartments shall be reapportioned among the modified Apartments in proportion to the relative net interior floor areas of the modified Apartments. Further in such event, limited common elements appurtenant to the affected Apartments, and parking stalls allocated to the affected Apartments in accordance with Section P.2 of this Declaration, shall be assigned or reallocated to the modified Apartments in the reasonable discretion of the Owner of the affected Apartments.

(c) The rights of an Apartment Owner pursuant to subsections L.4(a) and L.4(b) above are subject to the following terms and conditions:

(i) All such removal, alterations and additions shall be in accordance with complete plans and specifications therefor prepared by a Hawaii registered architect and filed with the Board, and shall be in accordance with all applicable laws, ordinances, rules and regulations made by governmental or quasi-governmental authority.

(ii) Such removal, alterations and additions shall not affect the structural integrity of the building or the soundness and safety of the Project, nor impair any easement or hereditament thereof.

(iii) Any altered or added common element walls or doors separating the modified Apartments shall be designed and constructed to a structural quality and cosmetic finish substantially comparable to other such common elements in the Project.

(iv) Such removal, alterations or additions shall not deprive other Apartment Owners from the use or enjoyment of their respective Apartments nor otherwise directly affect any nonconsenting Apartment Owner.

(v) All such removal, alterations and additions shall be at the expense of the Owner of the affected Apartment(s), and shall be completed within six months of commencement thereof.

(vi) During the entire course of all such removal, alterations and additions, the Owner of the affected Apartment(s) shall obtain and maintain, at such Owner's expense, builder's all risk insurance in an amount not less than the estimated cost of construction. The Association shall be named as an additional insured and evidence of such insurance shall be deposited with the Board.

(vii) Prior to commencement of any such removal, alterations or additions, and as a condition thereto, the Owner of the affected Apartment(s) shall obtain and maintain, at such Owner's expense, a payment and performance bond naming as obligees, collectively, the Association and all Apartment Owners as their interests may appear, in a sum not less than one hundred percent of the cost of construction and with a corporate surety authorized to do business in Hawaii, assuring performance of such construction free and clear of mechanic's and materialmen's liens, and all claims in lieu of mechanic's and materialmen's liens arising under the Act.

(viii) All such removal, alterations and additions shall require the vote or written consent of only the Owner of the affected Apartment(s), together with the written approval of the holders of mortgage liens on the affected Apartment(s) (if the lienholders require such approval).

(ix) Promptly upon completion of such removal, alterations and additions, the Owner of the affected Apartment(s) shall duly Record and file of record an amendment to this Declaration, together with approved plans showing such removal, alterations and additions, containing: (i) an amended description of the Project reflecting the modified Apartments and related common elements; (ii) the reapportioned common interests appurtenant to the modified Apartments; (iii) the assignment of limited common elements and parking stall allocations to the modified Apartments; and (iv) a certification by a Hawaii registered architect or professional engineer that the plans being filed therewith fully and accurately depict the layout, location, apartment numbers, dimensions and elevations of the modified Apartments, as built. Such amendment need only be executed by the Owner of the affected Apartment(s) and its mortgagees, as may be required.

(x) Upon completion of the events described in subsection L.4(c)(ix) above, the Owner of the affected Apartment(s) shall for all purposes be deemed the "Apartment Owner" as to the modified Apartments, and common elements added or modified in accordance with this Section L.4 shall for all purposes be deemed common elements of the Project. Prior to any sale of the modified Apartments, the Owner of the modified Apartments shall, if required by the Act, apply for and obtain a condominium public report describing and covering the modified Apartments, and shall indemnify Declarant, the Association, and all other Apartment Owners from and against all liability for any failure to properly do so.

EXHIBIT "C"

COMMON ELEMENTS

The common elements of the Project shall specifically include, but are not limited to, the following:

1. The land described in Exhibit "A" to the Declaration, in fee simple.
2. All structural components, such as foundations, girders, columns, beams, floor slabs, supports, main walls, load-bearing walls, floors, ceiling (except the inner or decorated surfaces of such walls, floors and ceilings), roofs, exterior stairs and stairways, landings, railings (except lanai railings), entrances and exists of the buildings and/or apartments, and other building appurtenances.
3. All yards, grounds, gardens, planters, plants, landscaping, refuse facilities and recreational facilities, if any.
4. All sidewalks, pathways, driveways, roads, loading areas, parking areas and parking stalls.
5. All ducts, electrical equipment, transformers, wiring, pipes and other central and appurtenant transmissions facilities and installations over, under and across the Project which are utilized by or serve more than one apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution, if any.
6. All areas, rooms, spaces, structures, housings, chutes, shafts or facilities of the Project within or outside of the buildings, which are for common use or which serve more than one apartment, such as electrical, maintenance, service, security, machine, mechanical and equipment rooms and the equipment, machinery and facilities therein.
7. All the benefits, if any, inuring to the land or to the Project from all easements, if any, shown on the Condominium Map or listed in Exhibit "A" to the Declaration.
8. Any and all apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.
9. All other parts of the Project which are not included in the definition of an apartment.

**EXHIBIT "D"**

**ENCUMBRANCES AGAINST TITLE**

1. For real property taxes that may be due and owing, reference is made to the Director of Finance, County of Hawaii.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Master Declaration of Restrictive Covenants, dated March 4, 1991, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-041779, as amended.
4. Declaration of Restrictive Covenants, dated August 6, 1993, recorded in the said Bureau as Document No. 93-128141.
5. Declaration of Restrictive Covenants-Kaloko Light Industrial Park Unit II, dated October 27, 1999, recorded in said Bureau as Document No. 99-191917.
6. Covenants, conditions, restrictions, reservations, agreements, obligations, exceptions and other provisions contained in Warranty Deed dated January 13, 2000, recorded in said Bureau as Document No. 2000-006195.
7. Condominium Map No. 3387.
8. Declaration of Condominium Property Regime of Kauhola Industrial Building dated December 1, 2001, recorded in said Bureau as Document No. 2002-001358.
9. Bylaws of the Association of Apartment Owners of Kauhola Industrial Building dated December 1, 2001, recorded in said Bureau as Document No. 2002-001359.

**EXHIBIT "E"**

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

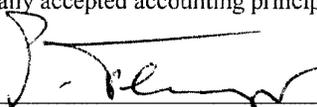
<b>Apartment</b>	<b>Monthly Fee (per apt.)</b>	<b>Yearly Total (per apt.)</b>
1	\$252.00	\$3,024.00
2	\$252.00	\$3,024.00
3	\$336.00	\$4,032.00

**Estimate of Maintenance Fee Disbursements:**

<u>Total</u>	<u>Monthly Fee x 12 months = Yearly</u>	
Utilities and Services		
Air conditioning		
Electricity		
<input checked="" type="checkbox"/> common elements only	\$ 80.00	\$ 960.00
<input type="checkbox"/> common elements and apartments		
Elevator		
Gas		
<input type="checkbox"/> common elements only		
<input type="checkbox"/> common elements and apartments		
Refuse Collection		
Telephone Alert Alarm (Fire)	\$ 50.00	\$ 600.00
Water and Sewer	\$100.00	\$ 1,200.00
Maintenance, Repairs and Supplies		
Building	\$100.00	\$ 1,200.00
Grounds	\$100.00	\$ 1,200.00
Management		
Management Fee		
Payroll and Payroll Taxes		
Office Expenses		
Insurance	\$305.00	\$ 3,660.00
Reserves(*)	\$100.00	\$ 1,200.00
Taxes and Government Assessments		
Audit Fees		
Other - Master Association Due	\$ 5.00	\$ 60.00
 TOTAL	 \$840.00	 \$10,080.00

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

I, PIERRE J. FLUYT, as a Developer, of the Kauhola Industrial Building 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.

  
\_\_\_\_\_  
Signature

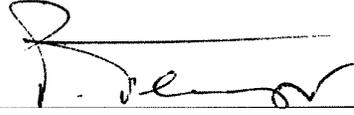
Date: April 15, 2002

(\*) 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 §514-A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §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.

Developer's Explanation Regarding Replacement Reserve Figure

In arriving at the figure for "Reserves," as set forth in Exhibit E to the Condominium Public Report, the developer did not conduct a reserve study in accordance with HRS § 514A-83.6 or HAR § 16-107-65. The figure is an estimate, based on reasonable projections of reserve requirements.



---

Pierre J. Fluyt  
Date: April 15, 2002

**EXHIBIT "F"**

**SUMMARY OF SALES CONTRACT**

The Deposit Receipt and Sales Contract (the "Sales Contract") contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Sales Contract states:

(a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of an apartment.

(b) That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Sales Contract.

(c) That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefit to be derived from the purchase of an apartment.

(d) That the Sales Contract may be subordinate to the lien of a construction lender.

(e) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.

(f) Requirements relating to the purchaser's financing of the purchase of an apartment.

(g) That the apartment and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.

(h) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

(i) That except under certain circumstances, as set forth in the Sales Contract, all interest on deposits toward the purchase price shall be the property of the Developer.

The Sales Contract contains various other important provisions relating to the purchase of an apartment in the Project. Purchasers and prospective purchasers should carefully read the specimen Sales Contract on file with the Real Estate Commission.

**EXHIBIT "G"**

**SUMMARY OF ESCROW AGREEMENT**

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) Except under certain circumstances as set forth in the Sales Contract, all deposits toward the purchase price shall be the property of the Developer.
- (d) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. Purchasers and prospective purchasers should carefully read the signed Escrow Agreement on file with the Real Estate Commission.