

**CONDOMINIUM PUBLIC REPORT**

Prepared &  
Issued by: Developer: JONATHAN OLCOTT and SCOTT E. HARROW  
Address: 3401 North 32nd Street, Phoenix, Arizona 85018

Project Name(\*): Baby Beach Condominium  
Address: Lot 80-A, Kapaa Town Lots, Second Series  
Kapaa, Kauai, Hawaii

Registration No. 4919  
(Conversion)

Effective date: September 25, 2002  
Expiration date: October 25, 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, in any, of the project or of purchasing an apartment in the project.

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

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

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

Type of Report:

PRELIMINARY: The developer may not as yet have created the condominium but has filed with 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.  
(yellow)

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

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

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

(\*) Exactly as named in the Declaration

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

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required and attached to this report                       Not required - Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT, **not** a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, **THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE.** The Purchaser should consult with the appropriate County agencies to determine whether the Purchaser may build a residential dwelling unit, or any other type of structure, on the property.

1. There are presently one (1) residential structure and one (1) shade shed on the property, both of which may be defined as an "apartment" under the condominium property act.
2. This public report does **not** constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it warrant that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.
3. The land area beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and is **not** a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.
4. Facilities and improvements normally associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.**

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## **General Information On Condominiums**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common Elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

## **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

**I. PERSONS CONNECTED WITH THE PROJECT**

Developer: JONATHAN OLCOTT and Phone: (602) 952-6925  
SCOTT E. HARROW  
3401 North 32nd Street,  
Phoenix, Arizona 85018

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker: Vision Properties, Inc. Phone: (808) 822-4444  
1070 Kuhio Highway  
Kapaa, Kauai, Hawaii 96746

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 522-6261  
235 Queen Street  
Honolulu, Hawaii 96803

General Contractor: Us Guys Builders, LLC Phone: (808) 245-7788  
4-1070 Kuhio Highway, Suite B  
Kapaa, Kauai, Hawaii 96746

Condominium Managing Agent: Self-managed by the Association of Unit Owners Phone:

Attorney for Developer: Donald H. Wilson Phone: (808) 245-4705  
Belles Graham Proudfoot & Wilson  
4334 Rice Street, Suite 202  
Lihue, Kauai, Hawaii 96766-1388

\*For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

Proposed

Recorded - Bureau of Conveyances: Document No. 2002-140087

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. 3472

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. 2002-140088

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 interests 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%*	_____ 100% _____
Bylaws	65%	_____ 100% _____
House Rules	-----	_____ N/A _____

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

2. Developer

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

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

The Developer reserves the right to change the Declaration and Condominium Map as provided for in Section M. of the Declaration.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
    Semi-Annually                     Annually

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

For Sub-leaseholds:

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

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
    Semi-Annually                     Annually

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

Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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: Lot 80-A, Kapaa Town Lots, Second Series  
Kapaa, Kauai, Hawaii

Tax Map Key: (TMK): (4) 4-5-002-003

Address  TMK is expected to change because CPR numbers will be added to the current  
TMK number.

Land Area: 20,247  square feet  acre(s) Zoning: R-20/Open

Fee Owner: JONATHAN OLCOTT and  
SCOTT E. HARROW  
3401 North 32nd Street  
Phoenix, Arizona 85018

Lessor: N/A  
Name \_\_\_\_\_  
Address \_\_\_\_\_

**C. Buildings and Other Improvements:**

1.  New Building(s)  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion
2. Number of Buildings: 2 Floors Per Building 1  
 Exhibit "A" contains further explanations.
3. Principal Construction Material:  
 Concrete     Hollow Tile     Wood  
 Other CPR shed is constructed of metal posts and shade cloth
4. Permitted Uses by Zoning:

	No. of Apts.	<u>Use Permitted by Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>1</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Other: Shed	<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: \_\_\_\_\_
- Number of Occupants: \_\_\_\_\_
- Other: Please refer to restrictive covenants affecting the Project contained in the Declaration of Condominium Property Regime, Article G.
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>Identify</u>
<u>Unit A</u>	<u>1</u>	<u>0/0</u>	<u>                    </u>	<u>16</u>	<u>Shed</u>
<u>Unit B</u>	<u>1</u>	<u>3/1</u>	<u>882</u>	<u>152</u>	<u>Deck</u>

Total number of Apartments: 2

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

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

Boundaries of Each Apartment:

See Exhibit "A"

Permitted Alterations to Apartments:

See Exhibit "B"

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by Section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement.



11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 Variance(s) to zoning code was/were granted as follows:

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

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

	Conforming	Non-Conforming	Illegal
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 Interests:

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:

\* See page 20, paragraph 4, regarding Special Management Area (SMA) permit requirements.

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

There are no limited common elements in this project.

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

described in Exhibit "D".

as follows:

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

3. Common Interests: Each apartment will have an undivided fractional interests in all of the common elements. This interest is called the "common interests." 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:

Each unit shall have appurtenant thereto an undivided fifty percent (50%) interest in all common elements of the property, and the same proportionate share in all common profits and common expenses of the property (except as may be otherwise provided in the Bylaws) and for all other purposes, including voting. The percentage common interest for each unit is determined by apportioning a fifty percent (50%) interest to each of the two (2) units irrespective of the actual land areas contained in each unit.

- 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 on or your purchase and ownership of an apartment in the project.

Exhibit "E" describes the encumbrances against the title contained in the title report dated August 28, 2002 and issued by Title Guaranty of Hawaii, Inc.

**Blanket Liens:**

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

- There are no blanket liens affecting title to the individual apartments.
- There are blanket liens which may affect title to the individual apartments.

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	Lender has priority over Buyer's rights under a sales contract, and has a right to terminate sales contracts upon foreclosure of its mortgage before an apartment sale is closed. Should the lender terminate Buyer's sales contract, Buyer shall be entitled to a refund of all deposits, less escrow cancellation fee.

**F. Construction Warranties:**

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

- 1. Building and Other Improvements:

None: Units are sold "as is".

- 2. Appliances:

N/A

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

The construction of Unit A was completed in 2001.  
The construction of Unit B was completed in 1967.

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 affiliated 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, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

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

Exhibit "F" 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 \_\_\_\_\_

## 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 "G" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated May 16, 2002.  
Exhibit "H" contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

### B. Buyer's Right to Cancel Sales Contract:

#### 1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer;  
or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all the 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, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_

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

This Public Report is a part of Registration No. 4919 filed with the Real Estate Commission on August 19, 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. For the purpose of Exhibit "F" of the Final Condominium Public Report, the Developer has not conducted a reserve study in accordance with § 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
2. The use of hazardous material is restricted except as provided under Article H of the Declaration and all hazardous materials laws.
3. Purchasers should be aware that a portion of the Project is located within the Open District under the County of Kauai Comprehensive Zoning Ordinance ("CZO"), as shown on the Condominium Map, and is therefore subject to certain land coverage restrictions as more fully detailed in the CZO. Under CZO provisions in effect at the time of issuance of this Condominium Public Report, land coverage within the Open District portion of the Project is limited to ten percent (10%) of the total size of the Open District area, provided that any parcel of record existing prior to or on September 1, 1972 is allowed 3,000 square feet of land coverage. "Land coverage" is defined under the CZO as

... a man-made structure, improvement or covering that prevents normal precipitation from directly reaching the surface of the land underlying the structure, improvement or covering. Structures, improvements and covering include roofs, surfaces that are paved with asphalt, stone, or the like such as roads, streets, sidewalks, driveways, parking lots, tennis courts, patios, and lands so used that the soil will be compacted so as to prevent substantial infiltration, such as parking of cars and heavy and repeated pedestrian traffic.

The Open District area within this Project is approximately 10,884 square feet (as stated in letter dated May 24, 1996 from the Planning Department, County of Kauai, attached hereto as Exhibit "I"), and the total land coverage area within the Open District area is 3,000 square feet, since the Property was a parcel of record prior to or on September 1, 1972.

Most of the Open District area within the Project is located on Unit A, and therefore, as provided in Article G.26 of the Declaration of Condominium Property Regime for the Project, no land coverage that would count against the CZO land coverage restrictions within the Open District shall be allocated to Unit B; rather, all of the land coverage for the Project shall be allocated to improvements to be constructed on Unit A. No surface that is within the CZO definition of land coverage shall be constructed within Easement "AU-1" unless agreed to in writing by the Owner of Unit A.

Purchasers should take note that, as stated in the letter dated August 22, 2002 and as corrected by letter dated August 29, 2002, from the Planning Department, County of Kauai, attached hereto as Exhibit "K", no more than one (1) single family residence shall be allowed in the Open District area of the Project.

4. The Project is located within the County of Kauai Special Management Area (SMA). As stated in the letter dated September 25, 2001 from the County of Kauai Planning Department (attached hereto as Exhibit "J"), under current County of Kauai ordinances any residence to be constructed in the future on Unit A will be exempt from SMA Permit requirements (the existing residence located on Unit B was constructed prior to adoption of the SMA Rules and Regulations, and therefore is a non-conforming, "grandfathered" structure). The construction of a guest house within the Project is subject to SMA Permit requirements, as would be any future renovations, alterations, repairs, or reconstruction of structures on the Property. If the cost of construction exceeds \$125,000, a "major" SMA Permit would be required, and if the cost of construction were less than \$125,000, a "minor" SMA Permit would be required. A "major" SMA Permit requires a public hearing before the Kauai Planning Commission, and a "minor" SMA Permit is an administrative permit processed only by the County of Kauai Planning Department without a public hearing.

Prospective purchasers of any Unit in the Project should consult with the County of Kauai planning authorities regarding building permit requirements and any amendments to applicable zoning and SMA ordinances that may have been adopted subsequent to the date of this Condominium Public Report.

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

JONATHAN OLCOTT and SCOTT E. HARROW  
Name of Developer

  
\_\_\_\_\_  
JONATHAN OLCOTT

August 15, 2002  
Date

  
\_\_\_\_\_  
SCOTT E. HARROW

August 15, 2002  
Date

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

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

## EXHIBIT "A"

### DESCRIPTION OF BUILDINGS

The project consists of one (1) residential unit constructed principally of wood, without a basement, on concrete posts foundation, and one (1) shade shed constructed of steel posts and shade cloth without a basement or foundation. Each structure (herein called "unit") is shown on the Condominium Map.

Unit A, located as shown on the Condominium Map, is a shed with a net area of 16 square feet.

Unit B, located as shown on the Condominium Map, is a one-story residential dwelling and consists of three bedrooms, one bathroom, a kitchen, and a living room, with a net living area of 882 square feet, and a deck with an area of 152 square feet, for a total area of 1,034 square feet.

The approximate net floor areas of each unit as set forth above is measured from the interior surface of the unit perimeter walls and includes all of the walls and partitions within its perimeter walls.

## EXHIBIT "B"

### ALTERATION OF PROJECT

Paragraph K of the Declaration provides that:

1. Provided that the unit owner satisfies the applicable terms and conditions of the Project Documents and obtains all of the necessary governmental permits, each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of any other unit or any other persons or entity, to construct, reconstruct, repair, maintain, improve, renovate, remodel, make additions to, enlarge, remove, replace, alter or restore the improvements to or in his unit or portions thereof or upon or within the Yard Areas or other limited common elements or easements appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner who makes such alterations (hereinafter referred to as the "Altering Owner") shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the Altering Owner shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the Altering Owner a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the Altering Owner shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable. If, despite the provisions of this paragraph, any governmental agency shall require some or all of the owners of units in the Project (other than the Altering Owner) to sign the necessary governmental permit application or related documents, then all of the other unit owners shall be required to sign any such permit applications or related documents (including authorizations allowing the Altering Owner to sign such governmental permits on behalf of such other owners) as may be necessary to allow the Altering Owner to obtain all such governmental permit necessary to make the alterations authorized by this paragraph. Any such unit owner who wrongfully refuses to sign such permits or provide the Altering Owner with the necessary authorizations: shall be liable to the Altering Owner for all such damages (including costs and attorneys' fees) incurred by the Altering Owner as a result of such refusal; and shall be subject to such other legal and/or equitable remedies as may be available to the Altering Owner.

2. Any alteration of a unit pursuant to this paragraph K shall be subject to the following conditions:

(a) All such alterations shall conform with all applicable governmental regulations, laws and ordinances.

(b) Such alterations may decrease or increase the size of the affected unit, provided that no alteration shall extend or place the unit outside of the limits of the Yard Area appurtenant to such unit.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be made within one (1) year of the commencement thereof and in a manner that will not unreasonably interfere with the other unit owner's use of his unit or Yard Area.

(d) The owner of the altered unit, at such owner's sole expense, shall have the right to utilize, relocate, construct, reconstruct, realign and/or develop additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services. When necessary, the owner of the altered unit may add, delete, relocate, realign, designate and grant easements and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith. Provided, however, that no work done pursuant to this paragraph shall cause any unreasonable interruption in the service of such utilities to any other part of the Project, nor shall it unreasonably interfere with any other unit owner's use or enjoyment of his unit or Yard Area.

3. Under current laws, the Project is entitled to construct one (1) Guest House. The right to construct said Guest House is reserved to the owner of Unit B. Said right may be assigned by the owner of Unit B to any other unit owner within the Project at any time. All provisions of the Comprehensive Zoning Ordinance and any other laws, ordinances or regulations which are applicable shall be observed by the unit owner to which the right to build a Guest House applies. The unit owner shall also consult with the appropriate County and/or State agencies regarding all applicable laws or regulations prior to construction.

4. Each and every conveyance, lease and mortgage or other lien made or created on any unit and all common interests, limited common elements, and other appurtenances thereto shall be subject to the provisions of this paragraph and any lease of a unit shall reserve to all unit owners the rights set forth in this paragraph.

\* SPECIAL NOTATION: When applying for building permits, use permits, zoning permits or any other land use permits with governmental agencies, 75% of the owners of the Project maybe required to sign the permit forms. In such case, all unit owners shall be required to sign such permit applications and related documents as may be necessary for any unit owner to obtain such permits.

The issuance of an effective date for the Condominium Public Report should not be construed to mean that all governmental laws, ordinances and regulations have been complied with and all

subsequent development and use shall comply with applicable governmental laws, ordinances and regulations.

Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities and improvements normally associated with County approved subdivisions may not be necessarily included as part of this Project.

## 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", attached to the Declaration, in fee simple.
2. All central and appurtenant installations for common services, including utilities.
3. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, use, maintenance or safety, or normally in common use.

## EXHIBIT "D"

### LIMITED COMMON ELEMENTS

Certain units shall have appurtenant thereto easements for the exclusive use of certain limited common elements as follows:

Yard Area A: The Yard Area under and surrounding Unit A, consisting of approximately 10,124 square feet acre as designated on the Condominium Map, is reserved for the exclusive use, possession, occupancy, and control of Unit A for the support of the building and other improvements comprising Unit A, and may be used for all purposes, but subject to all restrictions, described in the Project Documents.

Yard Area B: The Yard Area under and surrounding Unit B, consisting of approximately 10,123 square feet as designated on the Condominium Map, is reserved for the exclusive use, possession, occupancy, and control of Unit B for the support of the building and other improvements comprising Unit B, and may be used for all purposes, but subject to all restrictions, described in the Project Documents.

**EXHIBIT "E"**

**ENCUMBRANCES AGAINST TITLE**

1. Any taxes that may be due and owing and tax liens that may exist, refer to Director of Finance, Kauai County.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in LAND PATENT GRANT 9704 dated May 20, 1929.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in LAND PATENT GRANT S-15,438 dated May 12, 1978.  
  
The foregoing includes, but is not limited to, matters relating to reservation of minerals, water and prehistoric and historic remains.
4. GRANT to Citizens Utilities Company, a Delaware corporation, and GTE Hawaiian Telephone Company Incorporated, a Hawaii corporation, dated October 25, 1991, recorded in said Bureau as Document No. 92-035353, granting a perpetual right and easement for utility purposes over Easement "E-1" as shown on the map attached thereto.
5. That certain Mortgage dated January 26, 2001, in favor of FLEET NATIONAL BANK, a nationally chartered bank organized and existing under the laws of the United States of America, recorded in said Bureau as Document No. 2001-015837.
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:  
  
Declaration of Condominium Property Regime of Baby Beach Condominium dated April 24, 2002, and recorded in said Bureau as Document No. 2001- 140087.  
  
Condominium Map No. 3472, and any amendments thereto.
7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Bylaws of the Association of Unit Owners of Baby Beach Condominium dated April 24, 2002, and recorded in said Bureau as Document No. 2001- 140088.
8. Any unrecorded leases and matters arising from or affecting the same.

EXHIBIT "F"

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months = <u>Yearly Total</u>
Unit A	\$25.00 x 12 = \$300.00
Unit B	\$25.00 x 12 = \$300.00

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

Utilities and Services

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

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance \$50.00 x 12 = \$600.00

Reserves(\*)

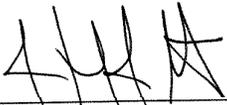
Taxes and Government Assessments

Audit Fees

Other

TOTAL \$600.00

We, JONATHAN OLCOTT and SCOTT E. HARROW, the owners/developers for the BABY BEACH 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.

  
 \_\_\_\_\_  
 JONATHAN OLCOTT

August 15, 2002  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 SCOTT E. HARROW

August 15, 2002  
 \_\_\_\_\_  
 Date

(\* ) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-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.

End of EXHIBIT  "F"

NOTE: Developer discloses that Developer has not conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules.

**EXHIBIT "G"**

**SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT**

The Deposit Receipt and Sales Contract, including the terms and conditions attached thereto as Article IV (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a purchaser will agree to buy a unit 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 a unit.

(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 a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.

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

(e) Requirements relating to the purchaser's financing of the purchase of a unit.

(f) That the unit 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.

(g) That the Developer makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.

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

(i) That the purchaser will not receive interest on deposits made under the Sales Contract.

(j) If the buyer shall default:

(1) The contract may, at the seller's option, be terminated by written notice to the buyer; and

(2) Any sums paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of 20% of the total purchase price); and

(3) The seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the buyer shall be borne by the buyer.

Further, if the buyer shall default in making any payment when due, a late charge of one percent (1%) per month shall accrue from the due date until such payment, together with such late charge, is paid, or at any time prior to the time that such payment and late charge is paid in full, the seller may, at its option, terminate this contract as provided in paragraphs (1) through (3) above.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the specimen sales Contract on file with the Real Estate Commission.

## EXHIBIT "H"

### 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) The purchaser is entitled to a refund if the purchaser or seller cancels the Sales Contract in accordance with its cancellation provisions, or if the purchaser terminates its reservation before the Sales Contract is binding. However, Escrow may deduct from the refund cancellation fees in accordance with the Sales Contract.

In the event of a default by the purchaser, the funds paid by the purchaser shall belong to the seller as liquidated damages (up to a maximum of twenty percent (20%) of the total purchase price).

The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

(d) The purchaser's funds that are placed in trust prior to closing may be used by the seller after (1) the purchaser has (i) been provided with a final public report; (ii) executed a receipt and notice and has waived his right to cancel or thirty (30) days have elapsed since the purchaser has been provided with the final public report and receipt and notice of right to cancel; and (2) the seller notifies escrow in writing that since (i) and (ii) have happened, the Sales Contract is binding; and (3) the seller's attorney advises escrow that the Sales Contract is binding and the requirements of Hawaii Revised Statutes, Sections 514A-63 and -65 have been met.

(e) Escrow may not disburse any buyer's funds in the construction of the project until completion of the project and the expiration of the mechanic's and materialmen's lien period. Escrow may disburse prior to completion of the project and expiration of the applicable lien period if the Developers would furnish each purchaser an Owners Title Insurance with an endorsement against any future liens placed on the apartments or project as a result of the development, plus providing the Real Estate Commission a release of the General Contractor's lien rights.

MARYANNE W. KUSAKA  
MAYOR



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE 473  
LILUE, KAUAI, HAWAII 96766

COPY

DEE M. CROWELL  
PLANNING DIRECTOR

IAN K. COSTA  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 241-6677  
FAX (808) 241-6699

May 24, 1996

Wendalen Gonzalez  
2563 Pacific Heights Road  
Honolulu, Hawaii 96813

Subject: Request for Zoning Information  
TMK: 4-5-02: 3 Waipouli, Kauai

In response to your letter of May 8, 1996 requesting zoning information on the subject property, we provide the following information.

The subject property is within the Residential District (R-20) and the Open District (O) in accordance with the Comprehensive Zoning Ordinance of the County of Kauai. Based on our computations, approximately 9,363 square feet of the property is within the Residential District and the remainder of the property (10,884 sq. ft.) is within the Open District. Based on the land area and zoning, the subject property qualifies for a density of four (4) residential dwelling units.

Be advised that the subject property is within the Special Management Area (SMA) of the County of Kauai and any new development on the property may be subject to the SMA permit review process. We suggest that you consult with this office during the early stages of any proposed development for the property regarding the requirement of the SMA Rules and Regulations.

With respect to your inquiry on the Condominium Property Regime (CPR) process, be further advised that the CPR process is administered by the State Real Estate Commission. We suggest that you consult that agency regarding the CPR process and requirements. Their mailing address is:

Real Estate Commission  
250 S. King Street, Suite 702  
Honolulu, Hawaii 96813

AN EQUAL OPPORTUNITY EMPLOYER

EXHIBIT I

Page 2  
Wendalen Gonzales  
May 28, 1996

Please be advised that further evaluation, requirements, and approvals from pertinent agencies may also be required prior to development of this property. Further, please be advised that this letter shall not be used as a representation of the County of Kauai's official consent for development of this property, or as part of the sale of this property to a prospective purchaser.

Should you have any further questions, please contact Myles Hironaka of my staff at 241-6677.



IAN K. COSTA  
Deputy Planning Director

MARYANNE W. KUSAKA  
MAYOR



DEE M. CROWELL  
PLANNING DIRECTOR  
SHEILAH N. MIYAKE  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 241-6677  
FAX (808) 241-6699

PLANNING DEPARTMENT

RECEIVED  
SEP 27 2001

BELLES GRAHAM  
PROUDFOOT & WILSON

September 25, 2001

Michael J. Belles  
Belles, Graham, Proudfoot, & Wilson  
4334 Rice Street, Suite 202  
Lihue, HI 96766

Subject: Construction of Second Single Family Residence  
Moanakai Road, Kapaa  
TMK: 4-5-02:3

Dear Mr. Belles:

This letter is being sent to confirm that construction of a second single family residence at the above identified property will not require a County of Kauai Special Management Area (SMA) Permit. Although the property contains an existing single family dwelling, and is located within the County SMA, the existing residence was constructed prior to adoption of the Special Management Area Rules and Regulations. Therefore, the first single family residence was not subject to SMA requirements.

Please be advised that there may be other applicable requirements, including requirements of other agencies, and it will be the applicant's responsibility to resolve those requirements.

Feel welcome to contact George Kalisik of my staff at 241-6677 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dee M. Crowell".

Dee M. Crowell  
Planning Director

EXHIBIT J

MARYANNE W. KUSAKA  
MAYOR



RECEIVED  
PVL  
REAL ESTATE BRANCH  
DEE M. CROWELL  
PLANNING DIRECTOR  
SHELLAH N. MIYAKE  
DEPUTY PLANNING DIRECTOR

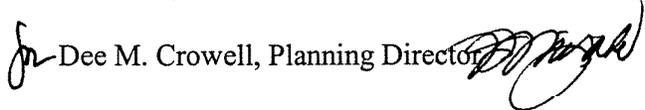
PLANNING DEPARTMENT '02 AUG 26 P1:44

TELEPHONE (808) 241-6677  
FAX (808) 241-6699

**DATE:** August 22, 2002

DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
STATE OF HAWAII

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

**FROM**  Dee M. Crowell, Planning Director

**SUBJECT:** Certification of Inspection of Existing Buildings

**PROJECT NAME:** BABY BEACH CONDOMINIUM PROJECT (020)

**TAX MAP KEY:** (4) 4-5-02:03

The developer of the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai, (Section 514A-40 (b), (1), Hawaii Revised Statutes. Subject to the disclosures and waivers (item "8" below) specified herein, we certify the following:

1. The developer has contracted architect Ian K. Costa to certify that the existing buildings on the proposed project referred to as Baby Beach Condominium Unit A and Unit B are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the Department.
2. There were no variances approved for the subject property.
3. The parcel does not contain any outstanding nonconforming uses or structures as a result of the adoption or amendments of any ordinances or codes and regulations.

**EXHIBIT K**

Senior Condominium Specialist  
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4. No more than one (1) single family detached dwelling shall be allowed in the open zone.
5. At least three thousand (3000) square feet of land coverage shall be permissible on any parcel of record existing prior to or on September 1, 1972.
6. No (SMA Permit) will be required for the second residence constructed in the Special Management Area (SMA).
7. There are no notices of violation of County Building or zoning codes outstanding according to our records.
8. **WAIVER**  
The foregoing certification is not a warranty to any compliance with applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under subsection 514A-40, (b), and (1), Hawaii Revised Statutes.

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

cc: Donald H. Wilson

MARYANNE W. KUSAKA  
MAYOR



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DEE M. CROWELL  
PLANNING DIRECTOR  
SHEILAH N. MIYAKE  
DEPUTY PLANNING DIRECTOR  
TELEPHONE (808) 241-6677  
FAX (808) 241-6699

PLANNING DEPARTMENT 02 SEP -5 11:56

August 29, 2002

DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
STATE OF HAWAII

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

SUBJECT: Baby Beach Condominium Project (020)  
TMK: (4) 4-5-02: 3 at Kapaa, Kauai

This letter is to correct a statement made in our August 22, 2002 letter to you. Specifically, point 5 in our letter states:

- 5. At least three thousand (3,000) square feet of land coverage shall be permissible on any parcel of record existing prior to or on September 1, 1972.

It should be corrected to state:

- 5. Not to exceed three thousand (3,000) square feet of land coverage in the Open Zone shall be permissible on any parcel of record existing prior to or on September 1, 1972.

Please contact Keith Nitta or Alvin Fukushima of my staff at 241-6677 if you have any questions.

SHEILAH N. MIYAKE  
Deputy Planning Director