

CONDOMINIUM PUBLIC REPORT

Prepared & issued by:

Developer Richard A. Silva, Trustee, and Carol M. Silva, Trustee  
Address P.O. Box 156, Kapaau, Hawaii 96755

Project Name (\*): **SILVA CONDOMINIUM PROJECT**  
Address: Kahei, District of North Kohala, Island and County of Hawaii, State of Hawaii

Registration No. 5014  
(conversion)

Effective date: July 3, 2003  
Expiration date: August 3, 2004

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:           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)

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

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

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

(\*) Exactly as named in the Declaration

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

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203

**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. 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.

1. 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.
  - a. Further improvement of the property is also subject to the requirements of the Hawaii County Comprehensive Zoning Ordinance specifically as it relates to "ohana" additional dwelling units.
2. 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.
3. The land may be subject to rollback real property taxes. The failure of a unit owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Direct of planning County of Hawaii for further information.
4. Unit 2 is presently a 48 square feet shade cloth greenhouse on the property, which may be defined as an "apartment" or "unit" under the Condominium Property Act.
5. 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.
6. This is to inform you that Chapter 205, Hawaii revised States, does not authorize residential dwellings as an permissible use in an agricultural use district, unless the dwelling is related to an agricultural activity or is a "farm dwelling".

Farm dwelling is defined in Section 205-4.5(a)(4) as "a single family dwelling located on and used in conjunction with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling".

Penalty for violation of Section 205-4.5, Hawaii revised Statutes, is a fine of not more than \$5,000. if any person who is cited for a violation of the law fails to remove the violation within six months of such citation and the violation continues, such person is subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCE 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: Richard A. Silva, Trustee, and Carol M. Silva, Trustee Phone: 808-884-5011  
Name\* (Business)  
P.O. Box 156  
Business Address  
Kapaau, Hawaii 96755

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\*: N/A (see page 20)

Escrow\*: First Hawaii Title Corporation Phone (808)329-8227  
75-5722 Kuakini Highway, Ste210  
Kailua-Kona, Hawaii 96740

General Contractor\*: N/A Phone: N/A

Condominium Managing Agent\*: Project will be self managed by the Association Phone: \_\_\_\_\_  
Of Apartment Owners  
Name (Business)

Attorney for Developer\*: Wendelin L. Campbell Phone (808)882-4404  
65-1235 A Opelo Road, Haina Cottage Ste. 5  
Kamuela, Hawaii 96743

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. 2001-086462

Book \_\_\_\_\_ Page \_\_\_\_\_

Filed - Land Court:

Document No. \_\_\_\_\_

As corrected by that Correction to Declaration of Condominium Property Regime of Silva condominium Project and Silva condominium Project By-Laws of the Association of Apartment Owners recorded in the Bureau of Conveyances on June 2, 2003 as Document No. 2003-109458; and corrected by that Second Correction Declaration of Condominium Property regime of Silva Condominium Project recorded in the Bureau of Conveyances on June 3, 2003 as Document No. 2003-109459.

**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. 3275

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

**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. 2001-086463

Book \_\_\_\_\_ Page \_\_\_\_\_

Filed - Land Court:

Document No. \_\_\_\_\_

As corrected by that Correction to Declaration of Condominium Property Regime of Silva condominium Project and Silva condominium Project By-Laws of the Association of Apartment Owners recorded in the Bureau of Conveyances on June 2, 2003 as Document No. 2003-109458.

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

The House Rules for this condominium are:

Proposed     Adopted     Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

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

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

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

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

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:

Canceled  Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

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

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

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

Lease Term Expires: Rent Renegotiation Date(s):

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

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

Other:

### IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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: Kahe'i, District of North Kohala  
Island and County of Hawaii, State of Hawaii

Tax Map Key (TMK): 3<sup>rd</sup> Division 5-5-1:53

Address  TMK is expected to change because

Land Area: 5.483  square feet  acre(s)

Zoning: A-1a

Fee Owner:

Name Richard A. Silva, Trustee, and Carol M. Silva, Trustee

Address P.O. Box 156, Kapaau, Hawaii 96755

Lessor:

Name N/A

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 contains further explanations.

- 3. Principal Construction Material:
- Concrete  Hollow Tile  Wood
- Other Shadecloth

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Agricultural	<u>x</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other (shed)	<u>x</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: Pets are permitted

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

Other: \_\_\_\_\_

There are no special use restrictions. \_\_\_\_\_

6. **Interior** (fill in appropriate numbers):

7.

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 1</u>	<u>1</u>	<u>3/2</u>	<u>1592</u>	<u>520</u>	<u>garage</u>
<u>Unit 2</u>	<u>1</u>	<u>      </u>	<u>      </u>	<u>48</u>	<u>greenhouse</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 Exhibits A&C

Permitted Alterations to Apartments:

Apartments Designated for Owner-Occupants Only: Not applicable  
 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.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>  X  </u>	<u>          </u>	<u>          </u>
Structures	<u>  X  </u>	<u>          </u>	<u>          </u>
Lot	<u>  X  </u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. **Common Elements. Limited Common Elements. Common Interest:**

1. **Common Elements:** Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit B

as follows:

2. Limited Common Elements: 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 C\*

as follows:

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

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

described in Exhibit

as follows: Each unit and its owner(s) shall have appurtenant thereto a one half (1/2) fractional (50%) interest in the common elements of the Project for all purposes including voting, said interest is referred to as "common interest".

- 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 November 18, 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.

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

[x] 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.

Type of Lien	Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgages:	Lender has priority over Buyer's rights under a sales contract, and has a right to terminate sales contract upon foreclosure of its mortgage before an apartment sale is closed. Should 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:

Improvements are sold "AS IS".

2. Appliances:

Appliances are sold "AS IS".

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

Unit 1 dwelling was completed in 1980.

Unit 2 shade cloth greenhouse was completed in 2000.

**H. Project Phases:**

The developer [ ] has [x] 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 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 **G** (Disclosure Abstract) 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 E contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated June 1, 2001.

Exhibit E 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 documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other: Additional Farm Dwelling Agreement; correction to Declaration of Condominium Property Regime of Silva Condominium Project, Bureau of Conveyances Document 2003-109458, recorded 6/03/03; Second Correction to Declaration of Condominium Property Regime of Silva Condominium Project, Bureau of Conveyances Document No. 2003-109459 recorded 6/03/03.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent if any. 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. 5014 filed with the Real Estate Commission on January 22, 2003.

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

**Disclosure Regarding Selection of Real Estate Broker:**

No plans have been made at this time to sell Unit 1 or Unit 2 of the condominium project. In the event the Developer chooses to use a real estate broker for the sale of Unit 1 or Unit 2 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.

**Regarding Additional Farm Dwelling Agreement (AFDA):**

At this time the AFDA applicant, Richard A. Silva has submitted a copy of the recorded AFDA to Hawaii County Planning Department thus fulfilling his requirement. Per an oral conversation with Larry Brown of the County of Hawaii Planning Department, there is no penalty applied to the applicant for having not submitted the agreement earlier. A copy of the ADFA has been attached to the Final Public Report as Exhibit H, which in turn will be forwarded to the Planning Department along with the Final Public Report when the project is registered.

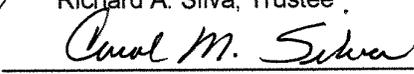
Per an oral conversation with Larry Brown of the County of Hawaii Planning Department, item 7 of the Planning Department letter dated October 24, 2002, is merely an advisory statement. The Planning Department has no plans at this time to initiate such proceedings. The proceeding to invalidate the permit or approval shall require written notice to the owner or person who has been issued the permit or approval prior to either the director or the commission taking action to invalidate the permit or approval. In the event that an appeal is filed regarding any permit or approval issued under this chapter, the two-year period provided for under this section shall not commence to run until a final decision is rendered in the appeal. The owner has received no such notice from the Planning Department.

**Zoning**

The property is currently zoned Ag A-1a. Prior to 1994 the land was classified as Ag A-5a. The Developer requested a change of zoning from the County of Hawaii to Ag A-1a, but was unable to meet the conditions of the ordinance allowing that change, and decided not to pursue the zoning change as initially wanted. The county of Hawaii Planning Department, has, however, classified the land as Ag A-1a since that time. This zoning may change should the County of Hawaii Planning Department so choose to revert it back to its original Ag A-5a zoning.

- 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-1.6] (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.

Printed Name of Developer

By:		<u>6/1/2002</u>
	Richard A. Silva, Trustee	Date
		<u>6/1/2002</u>
	Carol M. Silva, Trustee	Date

Printed Name & Title of Person Signing Above

Distribution:  
 Department of Finance, County of Hawaii  
 Planning Department, County of Hawaii

***\*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 the Estates Created

Two freehold estates were created and designated, and hereinafter referred to as "condominium units" (also referred to herein as "unit" or "units"). Specifically, the two estates so created and designated are referred to hereinafter as "Unit 1" and "Unit 2". Unless provided otherwise herein, each individual condominium unit is comprised of all of the structures and/or other improvements physically located or to be located on the land area appurtenant to said unit, as designated and defined in subparagraphs 5(a) and 5(b) herein. Said condominium units are or will be located as shown and designated on the Condominium Map, the number of which is noted above. The units are described as follows:

(a) "Unit 1" will consist of (i) a eight (8) room, one story, double wall dwelling having a net living area of approximately 1592 square feet, and a garage having a net area of approximately 520 square feet, with no basement, and (ii) any and all other future improvements which may be constructed on the land area appurtenant to said unit by the owner thereof. Specifically, in addition to the above-described improvements, the owner thereof is permitted, if allowed by law, to build any permitted structures on the land area appurtenant to said unit, provided that said structures comply with all applicable building codes and zoning ordinances and provided further that only one single family dwelling may be constructed upon the land area appurtenant to said unit. The costs and expenses of any such future construction shall be borne solely by the owner of said unit.

(b) "Unit 2" will consist of (i) one (1) room, single story, wood frame and shade cloth greenhouse with a dirt floor, having a net area of approximately 48 square feet, with no basement, and (ii) any and all other future improvements which may be constructed on the land area appurtenant to said unit by the owner thereof. Specifically, in addition to the above-described improvements, the owner thereof is permitted, if allowed by law, to build any permitted structures on the land area appurtenant to said unit, provided that said structures comply with all applicable building codes and zoning ordinances and provided further that only one single family dwelling may be constructed upon the land area appurtenant to said unit. The costs and expenses of any such future construction shall be borne solely by the owner of said unit.

**END OF EXHIBIT A**

## **EXHIBIT B**

### Description of Common Elements

One freehold estate was designated in all portions of the Project other than the units (except as herein specifically included), these portions of the Project being herein referred to as the "common elements", including specifically, but not limited to:

- (a) The land in fee simple;
- (b) All ducts, pumps, pipes, wires, conduits or other utility lines running over, under or through any unit or any limited common element appurtenant thereto which are utilized by or serve more than one unit and other central and appurtenant installations for common services, if any, including water, power, light, sewage, irrigation and telephone;
- (c) Any and all other apparatus, installations and/or facilities in common use and all other parts of the Property necessary or convenient to the existence, maintenance and safety of the Project, or normally in common use;
- (d) Each unit shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes of ingress to, egress from, utility services for, and support, maintenance and repair of such unit, and in the other common elements of the Project for use according to their respective purposes. When applicable, each unit shall also have appurtenant thereto easements in the other unit(s) for the purposes of utility service for, and the maintenance and repair of said utility services, including but not limited to electricity, gas, water, sewage, telephone and television cable;
- (e) The limited common elements described in Exhibit C of this public report and Section 5 of the Declaration.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of record against any condominium unit(s).

**END OF EXHIBIT B**

## EXHIBIT C

### Limited Common Elements

Certain parts of the common elements, herein referred to as the "limited common elements", are hereby set aside and reserved for the exclusive use of certain units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(a) That certain land area upon and around which Unit 1 is located, shown and designated on the Condominium Map as "Limited Common Element Land Area Appurtenant to Unit 1", containing an area of approximately 3.271 acres, shall be a limited common element appurtenant to and for the exclusive use of Unit 1.

(b) That certain land area upon and around which Unit 2 is located, shown and designated on the Condominium Map as "Limited Common Element Land Area Appurtenant to Unit 2", containing an area of approximately 2.212 acres, shall be a limited common element appurtenant to and for the exclusive use of Unit 2;

(c) The limited common element utility easement shown and designated on the Condominium Map over and across the limited common element land area appurtenant to Unit 2 shall be a limited common element easement in favor of Unit 1;

(d) All other common elements of the Project which are rationally related to less than all of said units shall be limited to the use of such units to which their use is rationally related;

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

**END OF EXHIBIT C**

**EXHIBIT D**

**ENCUMBRANCES AGAINST TITLE**

1. For information regarding real property taxes due and owing, reference is made to the County of Hawaii Director of Finance.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Easement "1" (10.00 feet wide) for telephone overhead line purposes, as per survey of Jerry S. Nakagawa, Registered Professional Surveyor, dated February 10, 1977, described as follows:

Beginning at a the South corner of this easement, the direct azimuth and distance from the end of Course No. 1 of the herein described Lot A being 173° 21' 10" 20.00 feet, and running by azimuths measured clockwise from true South:

1.	173°	21'	10"	17.59	feet along Government Land;
2.	208°	00'		367.40	feet along remainder of Grant 6233 to Mary Lesser;
3.	263°	55'		12.07	feet along remainder of Grant 6233 to Mary Lesser;
4.	28°	00'		388.64	feet along remainder of Grant 6233 to Mary Lesser to the point of beginning and containing an area of 3,780 square feet, more or less.

4. **GRANT**

In Favor Of:	HAWAII ELECTRIC LIGHT COMPANY, INC., a Hawaii corporation, and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation
Dated:	January 15, 1981
Book:	15357
Page:	216
Purpose:	granting an easement for utility and incidental purposes ten feet (10') wide along a portion of the Northerly boundary of Lot A.

5. A 10 ft. road widening setback line along Homestead Road, as shown on the map attached to instrument dated January 15, 1981, recorded in Book 15357 Page 216.

6. MORTGAGE

Mortgagor: RICHARD SILVA and CAROL SILVA, husband and wife  
Mortgagee: AMERICAN SAVINGS BANK, F.S.B., a federal savings bank  
Dated: April 6, 1993  
Document No. 93-059555  
Principal Sum: \$100,000.00  
The present amount due should be determined by contacting the owner of the debt.

7. MORTGAGE

Mortgagor: RICHARD SILVA and CAROL SILVA, husband and wife  
Mortgagee: AMERICAN SAVINGS BANK, F.S.B., a federal savings bank  
Dated: April 6, 1993  
Document No. 93-060565  
Principal Sum: \$48,000.00  
The present amount due should be determined by contacting the owner of the debt.

8. GRANT

In Favor Of: HAWAII ELECTRIC LIGHT COMPANY, INC., a Hawaii corporation  
Dated: November 14, 2000  
Document No. 2000-172156  
Purpose: granting an easement for electrical and incidental purposes.

9. ADDITIONAL TERM DWELLING AGREEMENT

By and Between: RICHARD A. SILVA and CAROL M. SILVA, "First Party", and  
the COUNTY OF HAWAII, "Second Party"  
Dated: December 13, 2000  
Document No. 2001-009614

10. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "SILVA  
CONDOMINIUM PROJECT"

Dated: April 24, 2001  
Document No. 2001-086462

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

Condominium Map No. 3275, as amended, to which reference is hereby made.

(The units created by the foregoing instrument are more particularly described in Schedule "1" attached hereto.)

11. SILVA CONDOMINIUM PROJECT BY-LAWS OF THE ASSOCIATION OF  
CONDOMINIUM OWNERS

Dated: April 24, 2001  
Document No. 2001-086463  
to which reference is hereby made

## **EXHIBIT E**

### **SUMMARY OF SALES CONTRACT**

It is Seller's intention to use the most recent edition of the Hawaii Association of Realtor's form of Deposit Receipt Offer and Acceptance (DROA). Among other provisions, the contract will contain the following:

1. Evidence of title: Seller shall furnish Buyer evidence of Seller's marketable title to the interest which is to be conveyed to Buyer. If Seller fails to deliver title as herein provided Buyer has the option to terminate this agreement and have any of Buyer's deposits returned to Buyer. The foregoing shall not exclude any other remedies available to Buyer. Buyer will receive an Owner's standard coverage policy of title insurance at closing: (a) Seller shall pay 60% of the premium to be charged for an Owner's standard coverage policy of title insurance to be issued to the buyer in the amount of the sales price, and (b) Buyer shall pay 40% of such premium and any additional costs relating to the issuance of any extended coverage policy, including a Lender's policy.
2. Default: It is expressly understood and agreed: First: In the event Buyer fails to pay the balance of the purchase price or complete the purchase as herein provided, Seller may (a) bring an action for damages for breach of contract; (b) retain the initial deposit and all additional deposits provided for herein, as liquidated damages, and (c) Buyer shall be responsible for any costs incurred in accordance with this contract. Second: In the event Seller fails to perform his obligations as herein provided, Buyer not being in default, Buyer may (a) bring an action against Seller for damages for breach of contract; (b) file and maintain an action against Seller for specific performance of the contract and (c) Seller shall be responsible for any cost incurred in accordance with this contract. The foregoing shall not exclude any other remedies available to either Seller or Buyer in the event of default and/or a lawsuit arising out of this contract (including a suit by a REALTOR for commission), the prevailing party shall be entitled to recover all costs incurred including reasonable attorney's fees. All expenses incurred by escrow shall be deducted from deposited funds prior to any disbursement of the prevailing party.
3. Closing: For the purpose of this contract "closing" shall be the date upon which all appropriate documents are recorded. Buyer and Seller agree to execute appropriate or customary documents when requested to do so.
4. Time is of the Essence: If either Buyer or Seller for reasons beyond his control cannot perform his obligation to purchase or sell the property by the closing date, then such party by giving escrow written notice prior to the closing date called for in this contract with copies to all parties to this contract, can extend closing for no longer than 30 calendar days to allow performance. Thereafter time is of the essence and the default provisions of Standard Term H apply. Any further extension must then be agreed to in writing by both parties. There is no automatic right to extend. This provision relates only to the extension of the closing date.

**END OF EXHIBIT E**

## EXHIBIT F

### SUMMARY OF CONDOMINIUM ESCROW AGREEMENT

1. Sales Contracts Deposited in Escrow. As and when Developer shall enter into a sales contract for the sale of a unit, Developer shall deliver an executed copy of such sales contract to Escrow.

2. Receipt of Funds by Escrow. Developer shall pay over to Escrow any monies received by Developer from purchaser under sales contracts covering units in the Project, including all disbursements made on loan commitments, if any, from lending institutions to individual purchasers.

3. Conditions to be Met Prior to Disbursement. No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled:

(a) The Real Estate Commission shall have issued a Final Report on the Project; provided, however, to the extent any sales contracts are entered into and a purchaser's funds are obtained prior to the issuance of a Final Public Report of the Real Estate Commission, no disbursements shall be made from such purchaser's funds until (i) such Final Public Report shall have been issued; and (ii) the purchaser shall have been given a copy of said Final Report and shall have acknowledged receipt of same or shall have been deemed to have acknowledged receipt of same and Developer's attorney shall have delivered a written opinion to Escrow that the purchaser's sales contract has become effective; and

(b) Developer or Developer's attorney shall have delivered a written opinion to Escrow stating that the requirements of Sections 514A-62 and 514A-63, Hawaii Revised Statutes, as amended, have been met; and, if the project is a conversion project, that requirements of Section 521-38, Hawaii Revised Statutes, as amended, have been complied with; and

(c) Developer shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract; and

(d) Developer shall have delivered to Escrow a certificate from Developer's architect stating that the project is in compliance with the Federal Fair Housing Amendments Act of 1988.

4. Return of Funds and Documents. A purchaser shall be entitled to a return of funds and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to the purchaser the funds of the purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised such purchaser's right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or

(d) The purchaser has exercised the purchaser's right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.

In any of the foregoing events, Escrow shall, upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from the purchaser upon the occurrence of an event described in (c) or (d) above, unless the purchaser has waived or has been deemed to have waived the right to a refund, pay said funds to said purchaser (less a cancellation fee of Escrow of not less than \$25.00 per unit or a cancellation fee commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater, up to a maximum of \$250.00) and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held hereunder; provided, however, that no refund shall be made to a purchaser at the purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

(e) Notwithstanding any other provision in this Agreement to the contrary, Escrow further agrees to make refunds to purchasers, in accordance with Part VI, Chapter 514A, Hawaii Revised Statutes, out of the funds then on deposit with Escrow, if Developer and the purchaser shall so request in writing and any one of the following events has occurred:

- (i) No sales contract has been offered to the purchaser who has been placed on Developer's reservation list of owner-occupant applicants; or
- (ii) The purchaser has been unable to obtain adequate financing, or a commitment for adequate financing, for the purchaser's reserved unit within thirty (30) calendar days following the end of the ten (10) calendar day period during which Developer is limited to selling to owner-occupants; or
- (iii) The purchaser desires to cancel the contract on account of hardship circumstances such as those set forth in Section 514A-104(1), Hawaii Revised Statutes; or
- (iv) The purchaser indicates an intent not to become an owner-occupant of such unit.

Except for cancellations under subparagraph (i) above, Escrow may deduct from any such refund made to a purchaser a cancellation fee as set forth above.

5. Purchaser's Default. If the purchaser fails to make any payment to Escrow which is required pursuant to the sales contract on or before the due date thereof or if the purchaser fails to perform in any matter that is being handled by Escrow, Escrow shall promptly notify Developer of any such failure on the part of the purchaser. If Developer subsequently certifies in writing to Escrow that Owner has terminated the sales contract in accordance with the terms thereof and provides to Escrow copies of such notices of termination sent to the purchaser, Escrow shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract as funds of Developer and not as funds of the purchaser. Upon written request by Developer, Escrow shall pay such sums to Developer, less any escrow cancellation fee, shall return to Developer any documents that had been theretofore delivered to Escrow by Developer and shall hold all other documents theretofore delivered to Escrow in connection with the purchase of the unit for the statutory period; and, Escrow shall thereupon be released from any further duties or liability hereunder with respect to such funds and such purchaser.

Note: Section 514A-63, Hawaii Revised Statutes, provides, rescission rights to a purchaser under a bidding contract if there is a material change in the project which directly, substantially and adversely affects the use or value of (1) such purchaser's apartment or appurtenant limited common elements, or (2) those amenities of the projects for such purchaser's use.

**END OF EXHIBIT F**

## EXHIBIT G

### DISCLOSURE ABSTRACT SILVA CONDOMINIUM PROJECT

Pursuant to the Section 514A-61, Hawaii Revised Statutes  
Condominium Property Act

#### DEVELOPER/PROJECT MANAGER

Richard A. Silva, Trustee and Carol M. Silva, Trustee, P.O. Box 156, Kapaau, Hawaii 96755.

#### ESTIMATED MAINTENANCE FEES/COSTS PER CONDOMINIUM UNIT

**MAINTENANCE FEES:** The regular maintenance and repair of each condominium unit is the sole responsibility of each respective unit owner. There are no common services and/or expenses which will require regular monthly assessments. Developers disclose that no reserve study was done in accordance with Chapter 514A-83.6, HRS, and replacement reserves rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

**INDIVIDUAL INSURANCE:** Section 514A-86, Hawaii Revised Statutes, requires that fire insurance be purchased to cover the improvements portion of the Project and that premiums be common expenses. Developer anticipates that the Association will elect to permit unit owners to obtain separate policies and name the Association as additional insured. In such case, insurance premiums will be the individual's responsibility of each owner unit rather than common expenses of the Project. Developer estimates such annual premium expense to be \$250.00 per apartment. This estimate was prepared in accordance with generally accepted accounting principles.

#### WARRANTIES

"Unit 1" is an eight (8) room, one story, double wall dwelling, having no basement.

"Unit 2" is a one (1) room, one story, wood frame and shade cloth greenhouse with no basement.

Potential buyers of said Units are advised that they are being sold "AS IS" without any building warranties.

#### USE OF CONDOMINIUM UNITS

The units of the Project and their appurtenant land areas shall be occupied and used only by the respective owners thereof, their families, domestic servants, personal guests, tenants, and employces, and only for those purposes permitted by applicable zoning ordinances. The unit owners shall have the absolute right to lease or rent their units subject to the limitations, restrictions, covenants and conditions contained in the Declaration or in the By-Laws of the Association of Condominium Owners. Subject also to said Declaration and By-Laws, maximum allowance and freedom shall be given so as to accommodate the individual unit owner's artistic, creative and life-style requirements.

STRUCTURAL COMPONENTS AND MECHANICAL & ELECTRICAL INSTALLATIONS

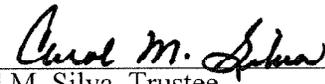
It is the developer's opinion that all structural components and mechanical and electrical installations material to the use and enjoyment of the individual condominium units appear to be in sound and satisfactory condition. HOWEVER, NO REPRESENTATIONS OF ANY KIND ARE MADE AS TO THE EXPECTED USEFUL LIFE, IF ANY, OF THE STRUCTURAL COMPONENTS AND MECHANICAL AND ELECTRICAL INSTALLATIONS MATERIAL TO THE USE AND ENJOYMENT OF THE CONDOMINIUM UNITS.

CODE VIOLATIONS

To the best of the knowledge, information and belief of the undersigned, there are no outstanding notices of uncured violations of the building code or other municipal regulations of the County of Hawaii.

6/1/2002  
Date

  
Richard A. Silva, Trustee

  
Carol M. Silva, Trustee

**END OF EXHIBIT G**

**EXHIBIT H**

R-568

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

JAN 23, 2001 08:02 AM

DOC No(s) 2001-009614

/S/ CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

AFTER RECORDATION, RETURN BY MAIL ( X ) PICK-UP ( )

Richard A. Silva  
P.O. Box 156  
Kapaau, HI 96755

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Richard A. Silva & Carol M. Silva  
County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 5-5-001:053

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 13 day of December, 2000,  
by and between Richard A. Silva & Carol M. Silva herein called the  
"First Party," whose mailing address is P.O. Box 156  
Kapaau HI 96755  
and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling  
located on the property described by Tax Map Key 5-5-01:53  
situated within the State Land Use Agricultural district  
and zoned A-1a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owners  
(legal owner/lessee)  
of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm  
dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s)  
involved in the agricultural or farm-related activity on the building site.
2. The agreement shall run with the land and apply to all persons who may now or in  
the future use or occupy the additional farm dwelling.
3. The landowner or lessee shall record the approved Additional Farm Dwelling  
Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

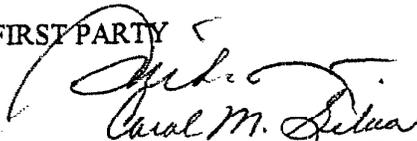
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may imposed a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

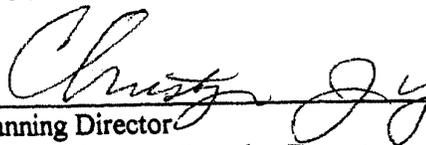
FIRST PARTY



(Legal Owner) Richard A. Silva  
Carol M. Silva

(Lessee)

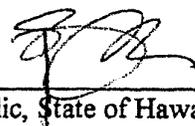
SECOND PARTY



Planning Director  
County of Hawaii Planning Department

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 22nd day of September, 2000 before me personally  
appeared Carlos M. Silva and Richard A. Silva, to me known to be the persons  
described in and who executed the foregoing instrument, and acknowledged that ~~he~~<sup>they</sup> ~~is~~<sup>are</sup> ~~the~~<sup>they</sup> ~~owner~~<sup>owner</sup>  
executed the same as his/her free act and deed.



Notary Public, State of Hawaii

PATTI FERGERSTROM-TAMASHIRO

91217002



My commission expires: \_\_\_\_\_

STATE OF HAWAII )

COUNTY OF HAWAII )

SS:

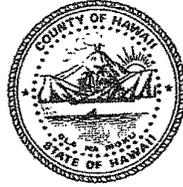
On this 13<sup>th</sup> day of December, 2000, before me personally appeared Christopher J. Guen to me personally known, who, being by me duly sworn, did say that he/~~she~~ is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Christopher J. Guen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga  
NOTARY PUBLIC, State of Hawaii

Patricia A. Koga

My commission expires: 7/17/02

EXHIBIT I



Harry Kim  
Mayor

Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

October 24, 2002

Wendelin L. Campbell, Esq.  
Campbell & Campbell  
Haina Cottage, Suite 5  
65-1235A Opelo Road  
Kamuela, HI 96743

Dear Ms. Campbell:

**Condominium Registration Information**  
**Project: Silva Condominium Project**  
**Richard A. Silva and Carol M. Silva**  
**Tax Map Key: (3) 5-5-001:053**

This is in response to your letter dated, August 6, 2002, in which you requested the issuance of a written statement, pursuant to the requirements of Hawaii Revised Statutes §514A-40(b)(1), regarding the referenced condominium project. Our research has resulted in the following:

1. The subject 5.483-acre property is zoned Agricultural (A-1a) by the County and is situated within the State Land Use Agricultural district;
2. Planning Department records include the following:
  - a. No variances were granted to achieve compliance with zoning or building ordinances and codes;
  - b. No non-conforming uses or structures are identified on the subject property;
  - c. The Hawaii County Council approved Ordinance No. 94-100 (REZ 771) on September 7, 1994 to change the zoning from Agricultural (A-5a) to Agricultural (A-1a) for the subject property. To date, the conditions of the ordinance have not been satisfied;

- d. The Planning Director approved Ohana Dwelling Unit Permit No. 1885 (OHD 1885) on October 8, 1990. OHD 1885 was never utilized and subsequently deemed void by the Planning Director's letter to Mr. Silva dated September 27, 2000;
  - e. The Planning Director approved Ohana Dwelling Unit Permit No. 3541 (OHD 3541) on October 8, 1990. OHD 3541 was never utilized and subsequently deemed void by the Planning Director's letter to Mr. Silva dated September 27, 2000;
  - f. An Additional Farm Dwelling Agreement (AFDA) was approved on December 13, 2000 to allow for the construction of a second dwelling unit on the subject property; and
  - g. The AFDA applicant, Richard A. Silva, has not submitted a copy of the recorded AFDA to the Hawaii County Planning Department as required by the approved AFDA.
3. Building Division-Department of Public Works (BD-DPW) records indicate the following development of the subject property:
    - a. BP #800527 was issued on March 3, 1980 to construct a new 3-bedroom dwelling with carport totaling 2,312 square feet in area. This permit was closed due to final inspection recorded on December 12, 1980;
    - b. BP #803105 was issued on December 15, 1980 to install a solar system. This permit was closed on January 5, 1981; and
    - c. BP #001329 was issued on October 2, 2000 to construct a 48-square foot shade cloth structure. This permit was closed due to final inspection recorded on October 5, 2000.
  4. Pursuant to §23A-20(a)(1), Ordinance 02-111, the subject CPR project is in compliance with the Hawaii County Subdivision Code;
  5. Chapter 205, HRS does not authorize residential dwellings as a permissible use in the Agricultural District as classified by the State Land Use Commission, unless the dwelling is related to an agricultural activity or is a "farm dwelling." A "farm dwelling" is defined in Section 205-4.5(a)(4) as "a single family dwelling located on

and used in conjunction with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling.” All property buyers must comply with Chapter 205, HRS.

6. The Hawaii County Code, Chapter 25, Zoning, Sections 25-5-77(b), (c) and (1) state the following:
  - (a) One (1) single-family dwelling or one (1) farm dwelling shall be permitted on any building site in the “A” district. A farm dwelling is a single-family dwelling that is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
  - (b) Additional farm dwellings may be permitted in the “A” district only upon the following conditions:
    - (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one (1) year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

***It should be clearly understood that the mere submittal of an application for an additional farm dwelling agreement does not guarantee approval.***

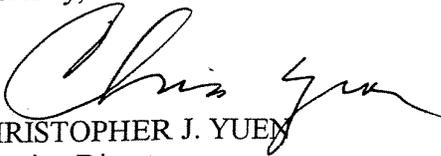
7. For your information, §25-2-7 of the Zoning Code addresses the utilization of permits and approvals. It stipulates that whenever any permit or approval issued under the Zoning Code, not otherwise conditioned, has not been utilized within a period of two years from the date of the written permit or approval, the Planning Director shall initiate proceedings to invalidate the permit or approval. According to our records the applicant has not obtained a building permit within the required two years, which ends on December 13, 2002.

All property buyers must comply with Chapter 25 of the Hawaii County Code.

Wendelin L. Campbell, Esq.  
Campbell & Campbell  
Page 4  
October 24, 2002

Should you have questions, please feel welcome to contact Larry Brown at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

LMB:pak  
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xc: Planning Department – West Hawaii Office  
Department of Water Supply – Water Resources & Planning Branch  
Real Property Tax Office