

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Waiawa Village LLC  
Address 99-1205 Halawa Valley St., Aiea, Hawaii 96701

ProjectName(\*): WAIAWA VILLAGE  
Address: 96-239 Waiawa Road, Pearl City, Hawaii 96782

Registration No. 5023 (Conversion)

Effective date: March 21, 2003

Expiration date: April 21, 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)**

**FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
**(white)**  
 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  
as Exhibit "H"

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.

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

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: Waiawa Village LLC Phone: (808) 487-7777  
Name (Business)  
99-1205 Halawa Valley St.  
Business Address  
Aiea, Hawaii 96870

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):

Menehune Water Company, Inc., Member  
Policarpio Pinpinio Medios, Member  
Lourdes Gadong Medios, Member

Real Estate Broker\*: The Covenant Group LLC Phone: (808) 488-0472  
dba Covenant Realty (Business)  
Name  
98-023 Hekaha Street, #2F  
Business Address  
Aiea, Hawaii 96701

Escrow: Island Title Corporation Phone: (808) 739-1482  
Name (Business)  
1332 Bishop Street, Suite 400  
Business Address  
Honolulu, Hawaii 96813

General Contractor\*: N/A Phone: N/A (Business)  
Name  
Business Address

Condominium Managing Agent\*: Self Managed by the Association of Apartment Owners Phone: (808) 487-7777 (Business)  
Name  
99-1205 Halawa Valley St.  
Business Address  
Aiea, Hawaii 96870

Attorney for Developer: Kenneth Wong, Esq. Phone: (808) 536-3870 (Business)  
Name  
745 Fort Street, Suite 602  
Business Address  
Honolulu, Hawaii 96813

\* 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. 2002-128289  
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]:

First Amendment of Declaration of Condominium Regime and Condominium Map of Waiawa Village, dated October 15, 2002 and recorded as Document No. 2002-187614.

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. 3467
- 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]:

First Amendment of Declaration of Condominium Regime and Condominium Map of Waiawa Village, dated October 15, 2002 and recorded as Document No. 2002-187614.

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. 2002-128290  
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 Document.** 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>Majority of Board of Directors</u>

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

\*\* Declarant does not need the approval of other apartment owners to change the Declaration and Condo Map for potential changes reserved by Declarant in the Declaration. See attached Exhibit "A".

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:

See attached Exhibit "A"

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: 96-239 Waiawa Road Tax Map Key (TMK): (1) 9-6-3-8  
Pearl City, Hawaii 96782

Address  TMK is expected to change because \_\_\_\_\_

Land Area: 3.4  square feet  acre(s) Zoning: R-5

Fee Owner: Waiawa Village LLC  
 Name  
99-1205 Halawa Valley St.  
 Address  
Aiea, Hawaii 96701

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: Ten (10) Floors Per Building 5 Buildings have 2 Floors  
5 Buildings have 1 Floor

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

3. Principal Construction Material:

- Concrete       Hollow Tile       Wood  
 Other Metal

4. Uses Permitted by Zoning:

	No. of <u>Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>6</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> MixRes/Comm	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Other (Storage)	<u>2</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

The Declaration permits residential uses and any other uses permitted by the Land Use Ordinances of the City and County of Honolulu.

\*Other principal uses permitted by the zoning provisions of the Land Use Ordinances include, day-care facilities, duplexes, dwellings (detached one family and two-family), meeting facilities, public uses and structures, elementary, intermediate and high schools, telecommunications antennas and utility installations, Type A.

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:

Dogs, cats and customary household pets permitted in reasonable number; provided no

[X] Pets: commercial breeding or use. No livestock, poultry or other animals.

[ ] Number of Occupants: \_\_\_\_\_

[X] Other: Please ask to see Waiawa Village Rules & Regulations ("House Rules") adopted October 15, 2002. They contain certain prohibitions.

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: -0- Stairways: 1 each in Units A, B, C, D & E Trash Chutes: -0-

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
Unit A	<u>1</u>	<u>4/2</u>	<u>1,565</u>	<u>99/24</u>	<u>Storage/ Porch</u>
Unit B	<u>1</u>	<u>4/2</u>	<u>1,484</u>		
Unit C	<u>1</u>	<u>4/2</u>	<u>1,567</u>		
Unit D	<u>1</u>	<u>3/2</u>	<u>1,606</u>	<u>15</u>	<u>Porch</u>
Unit E	<u>1</u>	<u>4/2</u>	<u>1,662</u>	<u>32</u>	<u>Porch</u>
Unit F	<u>1</u>	<u>2/1</u>	<u>672</u>	<u>60/30/312</u>	<u>Laundry/Porch /Lanai</u>
Unit G	<u>1</u>	<u>0</u>	<u>0</u>	<u>100</u>	<u>Storage</u>
Unit H	<u>1</u>	<u>0</u>	<u>0</u>	<u>100</u>	<u>Storage</u>

Total Number of Apartments: 8

**\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls, excluding the Carport and Lanai.**

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

Boundaries of Each Apartment:

The outside surfaces of the exterior walls and roof and the bottom surfaces of the footings and foundations of each Dwelling.

Permitted Alterations to Apartments:

See attached 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 elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 22

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)		<u>4**</u> <u>2*</u>				<u>2 (for Unit F)</u>	<u>20</u>
Guest		<u>2</u>					<u>2</u>
Unassigned							
Extra for Purchase							
Others:							
Total Covered & Open:		<u>20</u>		<u>0</u>		<u>2</u>	<u>22</u>

\* Units A, B, C, D and E have 2 open parking stalls each.

\*\* Units G & H have 4 open parking stalls each.

Each Unit will have the exclusive use of at least 2 parking stalls. Buyers are encouraged to find out which stall(s) will be available for their use.

Commercial parking garage permitted in condominium project.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool       Storage Area       Rccreation Area

Laundry Area       Tennis Court       Trash Chute/ Enclosure(s)

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

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations

There are no violations.       Violations will not be cured.

Violations and cost to cure are listed below:       Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

(For conversions of residential apartments in existence for at least five years):

The present condition of all structural components of Units A, B, C, D, E and F and the mechanical and electrical installation material to the use and enjoyment of Units A, B, C, D, E and F appear to be good. No warranty is made as to the expected useful life of the Project.

II. 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>Yes *</u>	<u>*</u>	<u>_____</u>	* Although Developer believes that the uses, structures and lot are conforming, Developer cannot be certain as the Department of Planning and Permitting of the City and County of Honolulu was not able to determine non-conforming uses.
Structures	<u>Yes *</u>	<u>*</u>	<u>_____</u>	
Lot	<u>Yes *</u>	<u>*</u>	<u>_____</u>	

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

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

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

D. Common Elements, Limited Common Elements, Common Interest:

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

described in Exhibit "C".

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit  D .

as follows:

Note: Reference in said Exhibit D to "Exclusive Use Area" does not mean legally subdivided Lots.

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

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

as follows:

Unit A - 12.5%  
Unit B - 12.5%  
Unit C - 12.5%  
Unit D - 12.5%  
Unit E - 12.5%  
Unit F - 12.5%  
Unit G - 12.5%  
Unit H - 12.5%

- 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  E  describes the encumbrances against the title contained in the preliminary title report dated January 2, 2003 and issued by  Island 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.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
Mortgage	Buyer's interest may be terminated by mortgagee but Buyer shall be entitled to return of his deposit, less escrow cancellation fees. However, in the event the Buyer's deposit is disbursed by Escrow and the lien is foreclosed prior to conveyance to Buyer, Buyer may not be able to recover any deposits.

**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:

Developer is not providing any warranties to Purchasers of a Unit.

2. Appliances:

Developer is not providing any warranties to Purchasers of a Unit.

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

Units A through F were originally built prior to 1960 but all have undergone substantial renovations which have been completed in early 2003. Units G and H were built in 2002.

H. **Project Phase**

The developer [ X ] 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):

See Exhibit "A"

IV. CONDOMINIUM MANAGEMENT

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

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

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

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

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

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

[X] Specimen Sales Contract  
Exhibit F contains a summary of the pertinent provisions of the sales contract.

[X ] Escrow Agreement dated May 8, 2002  
Exhibit G 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;
- D) 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) City and County of Honolulu, Dept. of Planning and Permitting Existing Use (EU) File No. 2001/EU-7.
- I) Approval of Water Use Permit (WUP No. 574) for Well No. 2358-36 dated January 4, 2002.
- J) Water Shortage Plan dated August 28, 2002.

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, 3<sup>rd</sup> Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is part of Registration No. 5023 filed with the Real Estate Commission on February 11, 2003.

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C. Additional Information Not Covered Above

1. Developer discloses that no reserve study was done in accordance with §514A-83.6, H.R.S., and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
2. The specimen Sales Contract provides in part that Buyer understands the Apartments are being sold without any warranties. The existence of any defect in the Apartments or anything installed thereon shall not excuse the Purchaser's obligation to perform all of his obligations under his contract as long as the Apartment is livable.
3. The Developer has reserved the right, without the joinder of any Unit Owner, the Association, the Board, any lien holder or any other person at any time, to delete and remove Unit G and/or Unit H and their respective Exclusive Use Areas from this Condominium Project, to tear down Unit G and Unit H, currently storage sheds, and replace them with residences, structures, parks or anything permitted under the Land Use Ordinance and to locate them at different locations from that currently shown on the Condominium Map, to combine or subdivide the Exclusive Use Area for Units G and H into 1 or more subdivided or condominium lots, to modify the size and dimension of the common element driveway, to build and further develop Exclusive Use Areas G and H (or however they may be reconfigured or reconstituted in the future) for residences, structures, parks or anything else permitted under the Land Use Ordinance then in effect, and to use the Water Tank, Main Line and Water Supply Line now designated as a limited common element for the exclusive benefit of Units, A, B, C, D, E and F referred to in Paragraph 5(p) of this Declaration, also for the benefit of Units G and H and to designate said Water Tank, Main Line and Water Supply Line as common elements of the Project. Declarant further reserves the right to subject this Project to any Declaration of Restrictive Covenants or any other conditions required by the City and County of Honolulu or any governmental or quasi governmental agency to further develop Exclusive Use Areas G and H, however they may be reconfigured or reconstituted in the future.
4. Hazardous Materials. The developer neither prepared nor commissioned a Phase I Environmental Site Assessment and makes no representations or warranties whatsoever. The developer has made no independent investigation as to asbestos or other hazardous substances in the apartments or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of, hazardous materials laws. Buyer acknowledges that in light of the age of the Project, there may be asbestos and other hazardous substances in the apartments, or in, under or around the Project. Because of the possible presence of such substances, Buyer should have the apartment inspected to determine the extent (if any) of such contamination and any necessary remedial action. The developer will not correct any defects in the apartments or in the Project or anything installed or contained therein and Buyer expressly releases the developer from any liability to Buyer if any hazardous materials are discovered.
5. Lead Warning Statement. Pursuant to federal law, 42, U.S.C. 4852(d), the Residential Lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

6. Yoshiyuki Sakai has the right to rent Unit C for \$800 per month for a period of 5 years commencing June 30, 2000, and also has a right of first refusal to purchase Unit C.
7. The entire Project is located in a flood zone. If Units G and H are removed and constructed into residences, the location of said Units as residences must be approved by the Department of Planning and Permitting since they are located in a flood zone.
8. All of the Units are subject to the terms and conditions of the Existing Use Permit EU 2001/EU-7 attached to the Declaration as Exhibit C.
9. Water Use Permit. Water for the Project will be provided by a well (Well No. 2358-36) situated on the Project. The Developer applied for and a Water Use Permit (WUP No. 574) was approved by the Commission of Water Resource Management, Dept. of Land and Natural Resources ("Water Commission") to use water from said well. Said well and pump house are designated as a common element of the Project. The maintenance costs of the well and pump house is described in Exhibit "1" attached to Exhibit "H" hereto. The Association is responsible to keep a record of the monthly total pumpage, water level, salinity and water temperature and submit a written report to the Water Commission on a monthly basis. Prospective purchasers are advised to read the permit (attached as Exhibit J) for the terms and conditions for using water from said well.
10. Sewage Disposal System. The Project does not have a sewer hook-up. Units A, B, C, D and E, each will have their own waste disposal system, consisting of a leaching tank, aerobic tank, pump and line. Unit F will have a cesspool. Each unit owner will be responsible for maintaining its own waste disposal system.

- 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.

WAIAWA VILLAGE LLC

Printed Name of Developer

By Its Managing Member  
Menehune Water Company, Inc.

By:   
Duly Authorized Signatory\*

2/10/03  
Date

Kenneth D. Simon as the President of Menehune Water Company, Inc., Managing Member of Developer

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu  
Planning Department, City and County of Honolulu

D:\Janice\Clients\Waiawa Village LLC-Condo (Simon, Kenneth)\Condo Docs\Public Report 9-26-02.wpd

**\* 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"

### DEVELOPER'S RESERVED RIGHTS

The Developer (Declarant) has reserved the following rights to change the Declaration, Condominium Map, By-Laws or House Rules:

1. Paragraph 19.1(j) of the Declaration states:

“(j) This Declaration is being imposed on the Land before completion of the contemplated future construction on each of Exclusive Use Area G and H of residences, structures, parks or anything permitted under the Land Use Ordinance. Consequently, each Unit Owner shall cooperate with the Change Unit Owner with respect to the Change Unit Owner’s construction of such residences, structures, parks or anything permitted under the Land Use Ordinance, obtaining building, utility and other governmental permits, obtaining utility services into his Exclusive Use Area which may be necessary or desirable for the residences, structures, parks or anything permitted under the Land Use Ordinance to be built by Change Unit Owner and amendments to the Declaration, Condominium Map and any other changes to the condominium documents. Notwithstanding the foregoing, the other Unit Owners shall not be required to incur any cost or expense hereunder without being reimbursed by the Change Unit Owner except that any attorney’s fees incurred by the other Unit Owner to review documents connected with the Change shall be at said Unit Owner’s expense. All costs incurred in the building of the residences, structures, parks or anything permitted under the Land Use Ordinance shall be borne by the Change Unit Owner, who shall indemnify and hold the other Unit Owners harmless from any loss, liability, damage or expense incurred or suffered by the other Unit Owners on account of such building by the Change Unit Owner.”

2. Paragraph 19.4 of the Declaration states:

“19.4 Reservations by Declarant.

(a) Notwithstanding anything to the contrary set forth in this Declaration, Declarant hereby reserves and shall have the right, without the joinder of any Unit Owner, the Association, the Board, any lien holder or any other person at any time, to delete and remove Unit G and/or Unit H and their respective Exclusive Use Areas from this Condominium Project, to tear down Unit G and Unit H, currently storage sheds, and replace them with residences, structures, parks or anything permitted under the Land Use Ordinance and to locate them at different locations from that currently shown on the Condominium Map, to combine or subdivide the Exclusive Use Area for Units G and H into 1 or more subdivided or condominium lots, to modify the size and dimension of the common element driveway, to build and further develop Exclusive Use Areas G and H (or however they may be reconfigured or reconstituted in the future) for residences, structures, parks or anything else permitted under the Land Use Ordinance then in effect, and to use the Water Tank, Main Line and Water Supply Line now designated as a limited common element for the exclusive benefit of Units, A, B, C, D, E and F referred to in Paragraph 5(p) of this Declaration, also for the benefit of Units G and H and to designate said

Water Tank, Main Line and Water Supply Line as common elements of the Project. Declarant further reserves the right to subject this Project to any Declaration of Restrictive Covenants or any other conditions required by the City and County of Honolulu or any governmental or quasi governmental agency to further develop Exclusive Use Areas G and H, however they may be reconfigured or reconstituted in the future.

(b) In connection therewith, the Declarant, without the consent or joinder of any Owner, the Association, the Board, any lien holder, or any other person, may execute and deliver on behalf of all of the Unit Owners and their respective mortgagees, if necessary, all applications, petitions, amendments to this Declaration, deeds and other instruments which the Declarant deems necessary or desirable, including without limitation, documents to be filed or recorded with the Department of Planning and Permitting of the City and County of Honolulu, the Recording Office, other governmental or quasi governmental agencies or private parties. The Declarant shall have the right also without the consent or joinder of any other person to take such actions in connection therewith if the Declarant deems such necessary or desirable. The form and content of such instruments or the taking of such actions shall be in the sole and absolute discretion of the Declarant, and his delivery of such instrument or the taking of such action shall be sufficient determination.

(c) In connection therewith, the Declarant shall have the right, without being required to obtain the consent or joinder of any Owner, any lien holder, the Association, the Board or any other person who may have any interest in the Property or the Project (i) to amend this Declaration and the Condominium Map to describe and depict the Land and Project as modified by effectuating any of the rights reserved by Declarant, to create additional common and limited common elements and easements as appurtenances to the apartments in the Project, to determine, describe and change the common interest and percentage of expenses effective upon such addition, deletion or subdivision and to set forth such other matters necessary or desirable to effect any such alteration in the Project; (ii) to amend any prior instrument of conveyance of an apartment and undivided interest so as to conform the same to the Declaration, as so amended; and (iii) to cause a conveyance by deed or other instrument from the Owners to the Declarant, or to whom the Declarant may designate, which instrument shall convey marketable title of the subdivided or reconfigured portions of Exclusive Use Areas G and H, together with easements for utility and roadway purposes through the Land or portions thereof which Declarant deems reasonable or necessary.

(d) The Declarant shall have the right to assign, mortgage or otherwise transfer or encumber its rights granted under this Paragraph 19.4. Any income or other financial benefit from the rights under this Paragraph 19.4 shall accrue solely to the benefit of the Declarant.

(e) To the extent that joinder of any Owner, the Association or lien holder or other person who may have any interest in the Property or the Project may be required in order to validate any amendment of this Declaration or the Condominium Map or any such instrument of conveyance for the limited purposes set forth in Paragraph 19.4, such Owner, lien holder, the

Association, the Board or other person shall execute such joinder or instrument of conveyance, and if such person fails to do so, such person shall be liable for any loss or damage incurred or suffered by the Declarant on account thereof, and the execution of the joinder or instrument of conveyance may be accomplished by power-of-attorney in favor of the Declarant from each of the Owners, lien holders, the Association or such other parties. The acquiring or acceptance of ownership in a Unit or of a lien covering a Unit or of any other interest in the Project or Property subject to this Declaration shall be deemed a grant of such power of attorney, and the grant being coupled with an interest, shall be irrevocable.

(f) By accepting or acquiring any right, title or interest in the Project or the Property subject to this Declaration, each Owner, lien holder, the Association, the Board or other person having any interest in the Project or Property agrees that he shall, if required by law or by the Declarant, join in, consent to, or execute all instruments or documents necessary or desirable to effect any of the rights reserved to Declarant in this Declaration, any amendments of the Declaration and Condominium Map as provided for in Paragraphs 19.4 and 20.4 and to effect any conveyance of such land to the Declarant or its assignee.

(g) The reservations in this Paragraph 19.4 and Paragraph 7.5 shall inure to and for the benefit of Developer/Declarant, and its successors, assigns, transferees and designees. This Paragraph 19.4 and Paragraph 7.5 shall not be amended without the consent of Declarant which consent may be withheld for any reason.”

3. Paragraph 20 of the Declaration states:

“20.1 Except as otherwise provided in this Declaration or by law, this Declaration may be amended by vote of seventy-five percent (75%) of the Unit Owners, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such Owners or by the proper officers of the Association. Except as otherwise provided in this Declaration or by law, the approval of eligible holders of first mortgages on Units to which are appurtenant at least 51% of the common interest of the project shall be required for any material amendment to the Declaration or any amendment of a provision that is for the express benefit of holders or insurers of first mortgages on Units. An eligible holder is a holder of a first mortgage on a Unit which has made a written request to the Association that it receive notices of proposed changes to the Declaration. A material amendment to the Declaration is one which establishes, provides for, governs or regulates any-of the following: (1) voting; (2) assessments, assessment liens, or subordination of such liens; (3) reserves for maintenance, repair and replacement of the common elements; (4) insurance or fidelity bonds; (5) rights to use of the common elements; (6) responsibility for maintenance and repair of the project; (7) expansion or contraction of the project for the addition, annexational or withdrawal of property to or from the Project; (8) boundaries of any Unit; (9) the interest in the common elements; (10) convertibility of Units into common elements or of common elements into Units; (11) leasing of Units; (12) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer or otherwise convey his or her interest in the Unit; or (13) establishment of self management by the

Association after professional management has previously been required by any of the mortgage holders.

20.2 Notwithstanding any provision to the contrary in this Declaration, (1) at any time prior to the first filing in the Recording Office of a conveyance of a Unit, the Declarant may amend this Declaration (including all exhibits) and the By-Laws in any manner, without the consent of any Unit purchaser; and (2) at any time thereafter, the Declarant may amend this Declaration (and when applicable, the Condominium Map) to file the "As Built" verified statement required by Section 514A-12 of the Act (i) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plan thereto filed fully and accurately depicts layout, location, apartment numbers, and the dimensions of an improvement or change in a Unit as built; or (ii) so long as the plans filed therewith involve only immaterial changes to the layout, location, or dimensions of the apartments as built or any change in any apartment number.

20.3 Notwithstanding any provisions to the contrary in this Declaration, the Owner of any Unit shall have the right without the consent or joinder of any other person to amend this Declaration and the Condominium Map to reflect the Changes made to the Unit and changes to the boundaries of Exclusive Use Areas in accordance with Paragraphs 19.1 and 19.3 provided all the applicable requirements of Paragraph 19 have been satisfied. Promptly upon completion of such Changes or changes to said boundaries, the Owner of the changed Unit or boundary, as the case may be, shall duly record with the Recording Office an amendment to this Declaration and the Condominium Map and to the Condominium Map, together with a complete set of the floor plans of the Project as so altered, certified as built by a registered architect or professional engineer. All existing Unit Owners and all future Unit Owners and their mortgagees, by accepting an interest in a Unit, shall be deemed to have given each Unit Owner a Power of Attorney to execute amendments to the Declaration and the Condominium Map solely for the purpose of describing the changes to his respective Unit on the Declaration so that each Unit Owner shall hereafter have a Power of Attorney from all the other Unit Owners to execute such amendment to the Declaration and Condominium Map. This Power of Attorney shall be deemed coupled with each Owner's interest in his Unit (including his common interest) and shall be irrevocable.

20.4 Notwithstanding any provision to the contrary in the Declaration including but not limited to paragraphs 20.1 and 20.2, this Declaration and the Condominium Map may be amended solely by the Declarant, without the need to obtain consent or joinder of any other Unit Owner, the Association, the Board, any lien holder or person, in order to implement additions, deletions, modifications and reservations that are set forth in Paragraphs 7.5, 19.4 or in other paragraphs of this Declaration. Promptly upon completion of such changes, the Declarant shall duly record with the Recording Office an amendment to this Declaration and to the Condominium Map, together with a complete set of the floor plans of the Project as so altered, certified as built by a registered architect or professional engineer. All existing Owners and all future Owners and their mortgagees, by accepting an interest in a Unit, shall be deemed to have

given the Declarant a Power of Attorney to execute amendments to the Declaration and the Condominium Map solely for the purpose of describing the changes in the Declaration and in the Condominium Map reflecting the additions, deletions, modifications and reservations reserved to Declarant as set forth in Paragraphs 7.5, 19.4 or in other paragraphs of this Declaration so that the Declarant shall hereafter have a Power of Attorney from all the other Owners to execute such amendments to the Declaration and the Condominium Map. This Power of Attorney shall be deemed coupled with each Owner's interest in his Unit (including his common interest) and shall be irrevocable.”

EXHIBIT "B"

PERMITTED ALTERATIONS TO APARTMENTS.

1. Paragraph 19.1 of the Declaration states:

“19.1. Changes to Units. Notwithstanding anything to the contrary contained in this Declaration, each Unit Owner shall have the right at his sole option at any time and from time to time without the consent of anyone other than the holders of all mortgage liens affecting his Unit, to improve, renovate, remodel, make additions to, enlarge, remove, replace or restore the improvements to or in his Unit or portions thereof or to make additional improvements upon the Exclusive Use Area appurtenant to the Unit (the foregoing are referred to collectively as "Changes" and singly, as a "Change") subject to the following conditions:

(a) Building plans for any Change shall be prepared by a licensed architect or professional engineer and all construction shall be undertaken in accordance with such plans and shall comply with all governmental laws, ordinances, rules and regulations.

(b) If required by County Building Laws, then the Owner making the change shall first obtain any requisite building permit.

(c) Any Change to a Unit cannot extend beyond the Exclusive Use Area which is appurtenant to the Unit.

(d) No Change to a Unit will be made if the effect of such Change would be to exceed the Unit's "proportionate share of the total allowable lot area coverage for the Land" or the number of dwelling units permitted on the Land, as permitted under the zoning and building codes applicable to the Land in effect when the Change is to be made (collectively, the "Land Use Ordinance"). A Unit's proportionate share of the total allowable lot area coverage for the Land shall be calculated by multiplying the Unit's common interest by the total allowable lot area coverage for the entire Land in the Project. For example, if the total lot area coverage for the entire Land in the Project is 2,000 square feet and the common interest for Unit A is 33%, then Unit A's proportionate share of the total allowable lot area coverage for the Land in the Project is 660 square feet (2,000 square feet x .33).

(e) Any such Change shall be at the expense of the Unit Owner making the Change (herein referred to as "Change Unit Owner") and shall be expeditiously made and in a manner that will not unreasonably interfere with the other Unit Owner's use or enjoyment of his Unit, the common elements or the other Unit's appurtenant limited common elements.

(f) During the entire course of such construction, the Change Unit Owner will cause to be maintained at his expense builder's all-risk insurance in an amount not less than the estimated cost of construction. At the request of the Association, the Association shall be named as an additional insured and, evidence of such insurance shall be deposited with the Association.

(g) The Change Unit Owner shall have the right to utilize, relocate and realign existing and/or to develop additional, central and appurtenant installations for services to the Unit affected by such Change for electricity, sewer and other utilities and services and when applicable, to add, delete, relocate, realign, designate and grant easement and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith; provided that the same shall not cause any substantial interruption in the service of such utilities to any other Unit Owner.

(h) If the consent or joinder of another Unit Owner to any Change, including obtaining building permits is required by the Act, then each Unit Owner hereby consents in advance to give such consent or join any such application for such Change, provided that all such expenses relating to the change shall be borne by the Change Unit Owner.

(i) Each and every conveyance, lease and mortgage or other lien made or created on any Unit and all common interests and other appurtenances thereto shall be subject to the provisions of this paragraph 19 and any lease of an Exclusive Use Area shall reserve to all Owners the rights set forth in this paragraph 19.

(j) This Declaration is being imposed on the Land before completion of the contemplated future construction on each of Exclusive Use Area G and H of residences, structures, parks or anything permitted under the Land Use Ordinance. Consequently, each Unit Owner shall cooperate with the Change Unit Owner with respect to the Change Unit Owner's construction of such residences, structures, parks or anything permitted under the Land Use Ordinance, obtaining building, utility and other governmental permits, obtaining utility services into his Exclusive Use Area which may be necessary or desirable for the residences, structures, parks or anything permitted under the Land Use Ordinance to be built by Change Unit Owner and amendments to the Declaration, Condominium Map and any other changes to the condominium documents. Notwithstanding the foregoing, the other Unit Owners shall not be required to incur any cost or expense hereunder without being reimbursed by the Change Unit Owner except that any attorney's fees incurred by the other Unit Owner to review documents connected with the Change shall be at said Unit Owner's expense. All costs incurred in the building of the residences, structures, parks or anything permitted under the Land Use Ordinance shall be borne by the Change Unit Owner, who shall indemnify and hold the other Unit Owners harmless from any loss, liability, damage or expense incurred or suffered by the other Unit Owners on account of such building by the Change Unit Owner."

EXHIBIT "C"

COMMON ELEMENTS. Paragraph 4 of the Declaration designates certain portions of the Project as "common elements", including specifically but not limited to:

4.1 The Land in fee simple;

4.2 The portion of the Project labeled as "Common Element 16,084 sq. ft", which includes the "Common Element Driveway", as shown on the Condominium Map;

4.3 The two guest parking stalls labeled as "Common Element Guest Parking Stalls", as shown on the Condominium Map;

4.4 The Pump House and Well labeled as "Common Element Pump House Well 2358-36", as shown on the Condominium Map;

4.5 All other portions of the Land and improvements not specifically heretofore designated as Dwellings, but which are intended for common use and all other devices and installations existing for or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Property Regime.

## EXHIBIT "D"

LIMITED COMMON ELEMENTS. Paragraph 5 of the Declaration designates:

“5.1 Certain parts of the common elements, herein called the "Limited Common Elements", are hereby designated and set aside for the exclusive use of each Unit, and each Unit shall have appurtenant thereto exclusive easements for the use of such limited common elements. Unless otherwise specified, all costs of every kind pertaining to each limited common element, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne by the Unit to which it is appurtenant. The limited common elements so set aside and reserved are as follows:

(a) The site on which Unit A is located, consisting of the land beneath and immediately adjacent to Unit A, including the site on which “Two Car Open Parking with Railing Limited CE for A” is located, as shown and delineated on the Condominium Map as "Exclusive Use Area A" (including the airspace above such sites) is for the exclusive benefit of Unit A.

(b) The site on which Unit B is located, consisting of the land beneath and immediately adjacent to Unit B, as shown and delineated on the Condominium Map as "Exclusive Use Area B" and the site on which Parking Stalls 1 and 2 are located (including the airspace above such site) are for the exclusive benefit of Unit B.

(c) The site on which Unit C is located, consisting of the land beneath and immediately adjacent to Unit C, as shown and delineated on the Condominium Map as "Exclusive Use Area C" and the site on which Parking Stalls 3 and 4 are located (including the airspace above such site) are for the exclusive benefit of Unit C.

(d) The site on which Unit D is located, consisting of the land beneath and immediately adjacent to Unit D, as shown and delineated on the Condominium Map as "Exclusive Use Area D" and the site on which Parking Stalls 5 and 6 are located (including the airspace above such site) are for the exclusive benefit of Unit D.

(e) The site on which Unit E is located, consisting of the land beneath and immediately adjacent to Unit E, as shown and delineated on the Condominium Map as "Exclusive Use Area E" and the site on which Parking Stalls 7 and 8 are located (including the airspace above such site) are for the exclusive benefit of Unit E.

(f) The site on which Unit F is located, consisting of the land beneath and immediately adjacent to Unit F, including the sites on which “Open Tandem Parking F”, “Lanai” and “Concrete Slab With Railing” are located, as shown and delineated on the Condominium Map as "Exclusive Use Area F" (including the airspace above such sites) are for the exclusive benefit of Unit F.

(g) The site on which Unit G is located, consisting of the land beneath and immediately adjacent to Unit G, as shown and delineated on the Condominium Map as "Exclusive Use Area G" and the site on which Parking Stalls 9, 10, 11 and 12 are located (including the airspace above such site) are for the exclusive benefit of Unit G.

(h) The site on which Unit H is located, consisting of the land beneath and immediately adjacent to Unit H, as shown and delineated on the Condominium Map as "Exclusive Use Area H" and the sites on which Parking Stalls 13, 14, 15 and 16 are located, and the site on which the "Concrete Walkway", as shown and delineated on the Condominium Map as "Limited CE for H" (including the airspace above such sites) are for the exclusive benefit of Unit H.

(i) The "Water Pump House and Shed", as shown and delineated on the Condominium Map as "Water Pump House and Shed Limited Common Element for Units G and H", and the Well, as shown and delineated on the Condominium Map as "Well Limited CE for Units G & H", are for the exclusive benefit of Units G and H.

(j) The leaching tank, aerobic tank, pump and line, as shown and delineated on the Condominium Map as "Limited CE for A", and the water line that connects Unit A to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Water Line for Unit A", are for the exclusive benefit of Unit A.

(k) The leaching tank, aerobic tank, pump and line, as shown and delineated on the Condominium Map as "Limited CE for B", and the water line that connects Unit B to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Water Line for Unit B", are for the exclusive benefit of Unit B.

(l) The leaching tank, aerobic tank, pump and line, as shown and delineated on the Condominium Map as "Limited CE for C", and the water line that connects Unit C to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Water Line for Unit C", are for the exclusive benefit of Unit C.

(m) The leaching tank, aerobic tank, pump and line, as shown and delineated on the Condominium Map as "Limited CE for D", and the water line that connects Unit D to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Water Line for Unit D", are for the exclusive benefit of Unit D.

(n) The leaching tank, aerobic tank, pump and line, as shown and delineated on the Condominium Map as a "Limited CE for E", and the water line that connects Unit E to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Water Line for Unit E", are for the exclusive benefit of Unit E.

(o) The "Existing Cesspool" as shown and delineated on the Condominium Map, and the water line that connects Unit F to the Main Line, as shown and delineated on the Condominium Map as "Limited CE Waterline for Unit F", are for the exclusive benefit of Unit A.

(p) The Water Tank, Main Line and Water Supply Line, as shown and delineated on the Condominium Map as "Limited CE for Unit A-F" are for the exclusive benefit

for Units A, B, C, D, E and F, subject to their use by Units G & H pursuant to reservations contained in this Declaration.

(q) Each Unit shall have a mailbox appurtenant to it and reserved for its exclusive use.”

EXHIBIT "E"

ENCUMBRANCES AGAINST TITLE

1. For Real Property Taxes that may be due and owing, reference is made to the Office of the Tax Assessor, City and County of Honolulu.
2. Title to all minerals and metallic mines reserved to the State of Hawaii.
3. Any variations in and along the boundaries of the land herein described running along Waiawa Stream, as may be caused by natural deviation of said stream.
4. EASEMENT  
  
Dated : February 6, 1945  
Recorded : Book 1872, Page 265  
Purpose : Utility  
In favor of: Hawaiian Electric Company, a Hawaii corporation, now known as Hawaiian Electric Company, Inc., a Hawaii corporation
5. EASEMENT  
  
Dated : February 13, 1958  
Recorded: Book 3390, Page 136-142  
In favor of: Hawaiian Electric Company, Limited, (now known as Hawaiian Electric Company, Inc.) and Hawaiian Telephone Company and their assigns.
6. Restricted abutters rights of access, as disclosed by Deed:  
  
Dated : February 14, 1968  
Recorded: Book 5974, Page 386
7. Restricted abutters rights of access, as disclosed by Deed:  
  
Dated : May 21, 1969  
Recorded: Book 6564, Page 389
8. EASEMENT "D"  
  
Dated : February 9, 1996  
Recorded: Document No. 96-024829  
Purpose: Utilities  
In favor of: Hawaiian Electric Company, Inc., a Hawaii corporation
9. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Deed:

Dated : June 22, 2000  
Recorded : Document No. 2000-090903

10. Rights of Parties in Possession as set forth in Deed:

Dated : June 22, 2000  
Recorded : Document No. 2000-090903  
Re : Grantor Yoshiyuki Sakai may remain in his home, both upstairs and downstairs, for a period of five (5) years at a monthly rent of \$800.00 per month. The term shall begin on June 30, 2000 and terminate sixty (60) calendar months later. During this period, if the property is successfully condominiumized, Grantor Yoshiyuki Sakai will have a first right of refusal to purchase the home he is residing in.

11. MORTGAGE

Dated : June 26, 2000  
Recorded: Document No. 2000-090904  
Amount: \$650,000.00  
Mortgagor: Menehune Water Company, Inc., a Hawaii corporation and Policarpio Pinpinio Medios and Lourdes Gadong Medios, husband and wife  
Borrower: Kenneth D. Simon, married, and Policarpio Pinpinio Medios and Lourdes Gadong Medios  
Mortgagee: Central Pacific Bank, a Hawaii corporation

12. ASSIGNMENT OF LESSOR'S INTEREST IN LEASES AND RENTS

Dated : June 26, 2000  
Recorded: Document No. 2000-090905  
Amount: \$650,000  
Assignor: Menehune Water Company, Inc., a Hawaii corporation and Policarpio Pinpinio Medios and Lourdes Gadong Medios husband and wife  
Assignee: Central Pacific Bank, a Hawaii corporation

13. Declaration of Condominium Property Regime of Waiawa Village, dated July 19, 2002, recorded on July 24, 2002, in said Bureau as Document No. 2002-128289, as amended by that First Amendment to Declaration of Condominium Property Regime and Condominium Map of Waiawa Village, dated October 15, 2002 and recorded in said Bureau as Document No. 2002-187614.

14. By-Laws of the Association of Apartment Owners of Waiawa Village dated July 19, 2002, recorded on July 24, 2002, in said Bureau as Document No. 2002-128290.

15. Condominium Map No. 3467, recorded in the Bureau of Conveyances, State of Hawaii, as amended by that First Amendment to Declaration of Condominium Property Regime and Condominium Map of Waiawa Village dated October 15, 2002 and recorded in said Bureau as Document No. 2002-187614.

## EXHIBIT F

### SUMMARY OF PERTINENT PROVISIONS OF SALES CONTRACT

Developer has filed a specimen Deposit Receipt and Sales Contract (“Sales Contract”) with the Hawaii Real Estate Commission, which contains certain pertinent provisions summarized as follows:

I.2. PURCHASE PRICE AND PAYMENTS; RESERVATION AND SALES.

If the Sales Contract is signed before the issuance of a Final Public Report, this Sales Contract will be a reservation and not a binding contract. The Sales Contract becomes binding after the Final Public Report is issued and other requirements referred to in paragraph 24 below are met.

I.7. CLOSING COSTS. Buyer shall pay all closing costs, the first month's maintenance fee and a start up fee equal to 2 month's maintenance fees. Real property taxes, assessments paid and insurance shall be prorated as of the Closing Date or the date of actual possession, whichever sooner occurs.

I.8. CONDOMINIUM DOCUMENTS. Buyer has examined and approves the form of the Apartment Deed, Declaration, By-Laws, Condominium Escrow Agreement, Final Public Report, Condominium Maps, and any amendments to such documents or plan. The Condominium Maps are intended to show only the layout, location, apartment numbers and dimensions of the apartments and are not intended to be any other representation or warranty.

I.12. MODIFICATION OF DOCUMENTS. As long as the Sales Contract is a reservation, Developer can make any changes to the Project and the Project documents. Even if the Sales Contract becomes binding, Developer can make certain modifications to the Declaration, By-Laws and Apartment Deed.

I.14. ACCEPTANCE OF APARTMENT; BUILDING NOT NEW; NO WARRANTIES. Buyer is accepting the Apartments and the common elements in “AS IS” condition with “ALL FAULTS AND DEFECTS.” The Apartments were constructed around 1932 and 1948 and Seller is making no warranties, express or implied (including warranties of merchantability, habitability, workmanlike construction or fitness for a particular purpose), regarding the apartments, common elements, appliances, furnishings, or anything connected with the Project.

Seller has not inspected the Project or the Apartments for the presence of hazardous materials including asbestos; because of the age of the buildings, there may be asbestos or other hazardous materials present in the buildings and Buyer should conduct an inspection for hazardous materials before purchasing an Apartment. Seller will not correct any defects in the Apartments or Project and Buyer is releasing Seller from any liability if hazardous materials are discovered. Seller shall not be responsible to ensure that nor make any alteration so that the Project and Apartments are in compliance with the Americans with Disabilities Act.

I.15. SUBORDINATION. Buyer acknowledges that Seller may obtain a loan and grant a mortgage covering Seller's interest in the Project land and the Project, including the Sales Contract. Buyer acknowledges and agrees that all security interests obtained by a lender in connection with such loan as well as any extensions, renewals and modifications thereof, shall be and remain at all times a lien or charge on the Project, including the Apartment covered by the Sales Contract, prior to and superior to any and all liens or charges on the Project arising from the Sales Contract. Buyer hereby expressly waives, relinquishes and subordinates the priority or superiority of any lien under the Sales Contract in favor of the lien or charge on the Project of the security interests of lender.

I.22(f). LIQUIDATED DAMAGES. In the event Buyer alleges that Seller violated any federal or state disclosure laws or regulations (including the Hawaii Condominium Act), Buyer's only remedy will be to sue for a refund of the purchase price and closing costs actually paid plus interest at 12% per annum from the date of closing until the date of repayment. If Buyer is successful, this remedy will constitute liquidated damages and Buyer cannot claim damage for changes to the Apartment, maintenance fees, real property taxes, mortgage fees and interest on the mortgage or any other damages.

I.24. RESERVATIONS, BINDING AGREEMENTS; SELLER'S CANCELLATION RIGHTS The Sales Contract will only be a reservation and not a binding contract if it has been signed before the issuance of a Final Public Report. Before it becomes a binding contract, a reservation can be cancelled at any time by buyer or Developer. As long as the Sales Contract remains a reservation, Developer will have the absolute right to change the Project, Declaration, ByLaws, Condominium Map, and any other documents dealing with the Project, including the Sales Contract and the Purchase Price for the Property.

A reservation will become a binding contract only when a Final Public Report is issued on the Project, Buyer signs a receipt for the Final Public Report and each of the conditions in Hawaii Revised Statutes § 514A-62(a)(1), (2) and (3) has been satisfied.

In addition to any other rights of cancellation reserved to Seller, if (a) Buyer's deposit check is returned for insufficient funds, (b) Buyer intends to obtain financing and fails to obtain an irrevocable commitment for an adequate loan within 45 days of the acceptance of the Sales Contract by Seller, (c) Buyer intends to pay all cash and fails to provide proof of ability to pay within 45 days after Seller accepts the Sales Contract, or (d) Buyer should die prior to Closing, Seller reserves the right to cancel the Sales Contract and return Buyer's check or payments, without interest and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of the Sales Contract.

I.24. BUYER'S RIGHT TO RESCIND Buyer has the right to cancel a binding Sales Contract at any time prior to the earlier of (1) the conveyance of an apartment to Buyer or (2) midnight of the thirtieth (30<sup>th</sup>) day following the receipt of the Final Public Report unless Buyer waives his right to cancel in writing prior to such time. Buyer also has the right to rescind the Sales Contract pursuant to HRS §514A-63.

I.29. & 30. DEFAULT. Time is of the essence of the Sales Contract, and if the Sales Contract is binding and Buyer shall default in any payment when required or fail to

perform any other obligations required of Buyer and shall fail to cure such default within five (5) days after receipt of written notice thereof from Seller, Seller may, at Seller's option, terminate the Sales Contract by written notice to Buyer. In the event of such default, the parties hereto understand and agree that the sums paid by Buyer prior to such default shall belong to Seller as liquidated damages. In addition, Buyer shall pay all fees for the preparation of documents in connection with Buyer's proposed purchase of the Apartment. Seller may also pursue any other remedy at law or in equity for specific performance or damages, and all costs, including attorneys' fees, incurred by reason of default by Buyer shall be borne by Buyer.

ADDENDUM Seller has not inspected the Project or the Apartments for the presence of lead-based paint; because of the age of the buildings, there may be lead-based paint present in the buildings and Buyer should conduct an inspection for lead-based paint before purchasing an Apartment.

THIS EXHIBIT CONTAINS ONLY SUMMARIES OF CERTAIN PERTINENT PROVISIONS CONTAINED IN THE DEPOSIT RECEIPT AND SALES CONTRACT. PROSPECTIVE OWNERS SHOULD READ AND UNDERSTAND ALL OF THE PROVISIONS IN THEIR ENTIRETY CONTAINED IN THE AFORESAID DOCUMENT.

## EXHIBIT "G"

### SUMMARY OF THE MATERIAL PROVISIONS OF THE ESCROW AGREEMENT

Summary of the Condominium Escrow Agreement between the Developer and Island Title Corporation.

1. All deposits will be paid to Escrow. A copy of each Sales Contract and all payments made to purchase an Apartment shall be turned over to the Escrow Agent.
2. Refunds. A Buyer shall be entitled to a return of his funds, and Escrow shall pay such funds to such Buyer, without interest, in accordance with the Sales Contract if any of the following has occurred:
  - (a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of 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 his right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or
  - (d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.
  - (e) Any circumstances, the occurrence or nonoccurrence which by law entitles Buyer to a refund.

Upon such refund, Escrow Agent shall be entitled to a reasonable fee equal to \$50.00 or a fee commensurate with the work done by Escrow prior to cancellation.
3. Requirements Prior to Disbursement of Buyer's Funds. Escrow Agent shall make no disbursements of Buyer's funds, pursuant to paragraph 7 of the Escrow Agreement until Buyer's apartment deed is recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.
4. Purchaser's Default. Developer must notify Escrow in writing if Purchaser defaults, and must certify that Developer has cancelled the Purchaser's Sales Contract. After such cancellation Escrow will treat the Purchaser's funds less Escrow's cancellation fees as belonging to the Developer.

EXHIBIT "H"

DISCLOSURE ABSTRACT

1. (a) PROJECT: WAIAWA VILLAGE  
96-239 Waiawa Road  
Pearl City, Hawaii 96782
- (b) DEVELOPER: WAIAWA VILLAGE LLC  
99-1205 Halawa Valley Street  
Aiea, Hawaii 96701  
Telephone: (808) 487-7777
- (c) MANAGING AGENT: Self Managed by Association  
of Apartment Owners
- (d) REAL ESTATE BROKER The Covenant Group LLC dba Covenant Realty  
98-023 Hekaha Street, #2F  
Aiea, Hawaii 96701

2. Breakdown of annual maintenance fees and monthly estimate costs for each unit are more fully described on Exhibit "1" attached hereto (revised and updated every twelve (12) months and certified to have been based on generally accepted accounting principles).

3. DESCRIPTION OF ALL WARRANTIES COVERING THE UNITS AND COMMON ELEMENTS:

The Developer is not making any warranties relating to the materials and workmanship of the Units.

4. USE OF UNITS. Units A, B, C, D, E and F shall be occupied and used only for residential purposes by the respective owners, their tenants, families, domestic servants and social guests, and for any other purpose permitted by the land use ordinance for the City and County of Honolulu. Units G and H are currently used for storage but may be used for any purpose permitted by the Land Use Ordinances for the City and County of Honolulu.

5. EXISTING STRUCTURES BEING CONVERTED. Based upon a report prepared by ROY YAMAMOTO, Registered Professional Architect, the Developer states:

a. The present conditions of all structural components and mechanical and electrical installation material to the use and enjoyment of the Units A, B, C, D, E and F appear to be good.

b. The Developer makes no representations with respect to the expected useful life of each item set forth in paragraph (a); and

c. There are no outstanding notices of uncured violations of building code or other municipal regulations.

d. The Department of Planning and Permitting of the City and County of Honolulu and the Developer are unable to determine if anything in the Project is considered non-conforming.

EXHIBIT "1"  
ESTIMATED OPERATING EXPENSES  
 For Period January 1, 2003 to December 31, 2003  
 As Prepared by Developer

Estimated Annual Expenses:

*	Ground Maintenance .....	\$ -0-
<sup>1/</sup>	Water/Sewer .....	\$ 720
<sup>2/</sup>	Electricity: .....	\$1080
<sup>3/</sup>	Fire Insurance: .....	\$ -0-
<sup>4/</sup>	Reserves: .....	\$ -0-
<sup>5/</sup>	Management Fee: .....	\$ -0-
	Administrative Expenses .....	\$ -0-
<sup>6/</sup>	Common Driveway Maintenance: .....	\$ -0-
	<b>TOTAL ANNUAL EXPENSES</b>	<b>\$1800</b>

Estimated Monthly Expenses: \$ 150

Estimated Monthly Maintenance Fee for Each of Units A-F: \$ 25

Notes:

- <sup>1/</sup> This figure represents the replacement of filters used to filter water supplied by Pump House Well 2358-36 ("Well 2358-36") to Units A, B, C, D, E and F. Water is provided at no charge from said Well 2358-36, however, Units A, B, C, D, E and F will share the cost of maintenance and repair of said Well 2358-36 when such maintenance and repair becomes necessary. Units G and H shall not share in the costs of maintenance, repairs and operations of Well 2358-36 until such time that Unit G or Unit H uses water supplied by said Well 2358-36. Units A, B, C, D, E and F will share the costs of maintenance and repair of the Water Tank limited common element for Units A - F and Water Supply Line and Main Line Limited Common Elements for Units A - F when such maintenance and repair becomes necessary. Each of the Units A, B, C, D, E and F has a separate sewage disposal system for which each Unit is responsible when repair and maintenance becomes necessary.
  
- <sup>2/</sup> This figure represents the electricity to operate the pump that pumps the water from the Well 2358-36. Units G and H shall not share in the costs of maintenance, repairs and operating Pump House Well 2358-36 until such time that Unit G or Unit H uses water supplied by said Well 2358-36. All electricity supplied to the Units are separately metered.
  
- <sup>3/</sup> Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners to purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses.

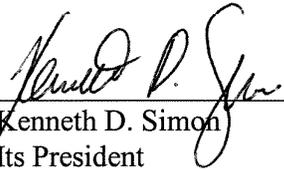
- <sup>4/</sup> Developer discloses that no reserve study was done in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
- <sup>5/</sup> The Project will be self managed by the Association of Apartment Owners.
- <sup>6/</sup> All Units will share the cost of maintenance and repair of the Common Element Driveway when such maintenance and repair becomes necessary. No monthly or annual fees will be collected. At the time of maintenance or repair, the cost of maintenance and repair will be assessed against each Unit.

The Developer certifies that the maintenance fees and costs as estimated by the Developer is based on generally accepted accounting principles.

Dated: February 10, 2003

WAIAWA VILLAGE LLC

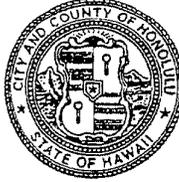
By Its Managing Member  
Menehune Water Company, Inc.

By   
Kenneth D. Simon  
Its President

“Developer”

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: www.co.honolulu.hi.us



JEREMY HARRIS  
MAYOR

RANDALL K. FUJIKI, AIA  
DIRECTOR  
LORETTA K.C. CHEE  
DEPUTY DIRECTOR

2001/EU-7(PS)

MINOR PERMIT	:	EXISTING USE (EU)
File Number	:	2001/EU-7
Project	:	Waiawa Village EU
Location	:	96-239A, 96-239B, 96-239C, 96-239D, 96-239E, 96-239F, 96-239G Waiawa Road - Pearl City
Tax Map Key	:	9-6-003: 008
Zoning	:	R-5 Residential District
Applicant	:	Kenneth Sikes
Date Received	:	June 13, 2001
Date Accepted	:	June 27, 2001

**APPROVAL** is granted to the existing use, 8 existing single-family dwelling units, with minor modifications to reconstruct Units G and H, in accordance with the application documents (plans date-stamped June 13, 2001 and July 5, 2001), subject to the following conditions:

1. All work shall be in accordance with approved application documents, the conditions enumerated below and the Land Use Ordinance (LUO) unless otherwise stated by this permit.
2. The EU permit is only for the continued use, repair, alteration, expansion, relocation, or reconstruction of the existing dwellings. This Existing Use approval does not certify that the existing structures and improvements comply with the current zoning code or other regulations.
3. In accordance with Section 2.100(a) of the LUO, in the event of destruction, uses may be continued and structures may be rebuilt under the approved existing use plan, provided that such restoration is permitted by the Building Code and Flood Hazard Regulations and is started within two years.
4. Only **minor modifications** to the EU plans shall be allowed. Any major modification which may have an adverse impact on surrounding land uses, increases the number of dwelling units, and/or involves the reconstruction and/or expansion of a dwelling(s) which is part of a larger development, shall require the processing of a Cluster Housing Permit.
5. Prior to issuance of any permits subsequent to this approval, the applicant shall obtain a building permit and/or complete work to demolish the dwellings identified as Units G and H, and other structures identified on the plans to be demolished. Reconstruction of Units G and H shall be subject to the condition imposed herein.

**EXHIBIT "I"**

Page 1 of 3

6. The applicant or owner(s) shall incorporate this EU Permit into the restrictive covenant which runs with the land, to serve as notice to all owners and tenants. The draft covenant shall be submitted for review and approval by the DPP. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to the change in any ownership or the issuance of any permits.
7. If the project will be condominiumized, the applicant or owner(s) shall submit a draft copy of the Condominium Property Regime (CPR) map, including flood district designations, and documents to the DPP for our review. The creation of any limited common element shall take into consideration the location of the flood hazard districts and where the dwellings may or may not be reconstructed. Future work subsequent to the creation of a CPR may require approval from the homeowner's association prior to the start of work. If the EU Permit is incorporated into the CPR documents, a separate declaration of restrictive covenants is not required.
8. All work shall comply with the applicable Land Use Ordinance (LUO) standard for the underlying zoning district, unless otherwise stated herein:
  - (1) A minimum 16-foot clear access width shall be maintained along the common element access driveway.
  - (2) A minimum 10-foot setback, for structures, fences or walls, shall be required from the common access drive.
  - (3) Within the project, the minimum distances between buildings shall be as follows:
    - (i) 10 feet between two one-story dwellings
    - (ii) 15 feet between a one-story and a two-story dwelling or portion thereof
    - (iii) 20 feet between two-story dwellings

If the property is condominiumized, then, buildings shall comply with required yards and height setbacks of the underlying zoning district as measured from limited common element (CPR) lines.
  - (4) Maximum building area shall not exceed 50 percent of the portion of the lot within Flood Zone X. If the property is condominiumized, then, within each limited common element, the maximum building area shall not exceed 40 percent of the area for each limited common element (not in the Floodway).
9. All new work shall be compatible in design with the existing and surrounding structures. If a dwelling is reconstructed, it shall not exceed twice its existing size (footprint), and shall be in the same general location. The Director may require the redesign of exterior entrances, stairways, bar areas, including plumbing and electrical systems, to ensure that the number of dwellings is not increased.
10. A minimum of 16 parking spaces, 2 stalls for each dwelling unit, shall be provided prior to the issuance of any building permits subsequent to this approval. Free and clear access must be provided from each unit to its required parking. Dwelling additions shall comply with the LUO parking regulations. Existing parking spaces within carports or garages shall not be converted into usable floor area (including garage or carport storage areas).
11. An all-weather surface shall be provided at all driveway or parking areas prior to the issuance of any building permits, subsequent to this approval.

- 12. A Fence Master Plan shall be submitted to the DPP for review and approval prior to the issuance of any new building permit for fences or walls. In no case shall fences or walls be erected so as to deny access to dwellings or required parking.
- 13. All existing trees 6 inches or greater in diameter shall be retained on-site, or replacement landscaping shall be required. All landscaping shall be maintained in a healthy visual condition at all times.
- 14. The addition, alteration or reconstruction of any dwelling unit shall comply with Fire Department requirements for access, water and/or Fire Department connections, including but not limited to the provision of an approved automatic fire sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings for all new construction. Construction plans shall be submitted to the Fire Department for review and approval prior to issuance of building permits.
- 15. Any modification to the application documents and conditions stated herein shall be subject to approval by the DPP. For good cause, the Director may impose additional requirements and/or amend the above conditions.

doc106026r1

*THIS COPY, WHEN SIGNED BELOW, IS NOTIFICATION OF THE ACTION TAKEN.*


for Director
7/31/01

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SIGNATURE
TITLE
DATE

The above approval does not constitute approval of any other required permits, such as building permits.



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
P.O. BOX 621  
HONOLULU, HAWAII 96809

January 4, 2002

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

574.wup

Mr. Kenneth Sykes  
98-023 Hekaha St., #F-2  
Aiea, HI 96701

Dear Mr. Sykes:

**Approval of Water Use Permit (WUP No. 574) for Well No. 2358-36**  
**Waipahu-Waiawa Ground-Water Management Area, Oahu**

This letter transmits your water use permit for Pearl City Well (Well No. 2358-36) for use of 0.004 million gallons per day (mgd) of water on a 12-month moving average basis that was approved by the Commission on Water Resource Management (Commission) on December 19, 2001. As part of the Commission's approval, the following special conditions were added and are part of your permit under Standard Permit Condition 19:

**Special Conditions**

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. In the event the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.
3. The permittee is required to test the source using a certified private laboratory and submit the test results to the Commission within three (3) months. The Commission will then forward the results to the Department of Health for their review. The Department of Health recommends that the well be routinely tested for microbiological and chemical parameters thereafter.

Enclosed with this letter of approval are the following:

1. Your water use permit
2. Your official monthly water use report form

Please be sure to read the conditions of your approved permit.

We draw your attention to two key conditions of your permit that require your response. First, you are required to keep a record of your monthly total pumpage, water level, salinity, and water temperature. This information must be submitted to the Commission on a regular monthly basis using the enclosed water use report form. You should make copies of the enclosed report form as needed.

**EXHIBIT "J"**

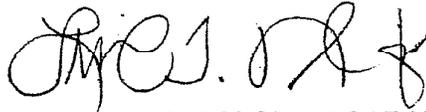
Page 1 of 5

Mr. Kenneth Sykes  
Page 2  
January 4, 2002

Second, you are required to submit a water shortage plan to the Commission within thirty (30) days of the issuance date of this permit. Your water shortage plan simply identifies what you are willing to do should the Commission declare a water shortage situation in the Waipahu-Waiawa Ground-Water Management Area and can be as short as a one page letter. In a water shortage situation, the Commission may require temporary reductions in pumpage from all sources. The Commission is required, by law, to formulate a plan to implement such area-wide reductions, which should accommodate, include, and be consistent with your plans. Therefore, your help, by submitting your water shortage plan, is greatly needed in formulating the Commission's overall Water Shortage Plan.

If you have any questions, please call Lenore Nakama of the Commission staff at 587-0218.

Aloha,



GILBERT S. COLOMA-AGARAN  
Chairperson

Attachments



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
P.O. BOX 621  
HONOLULU, HAWAII 96809

## GROUND-WATER USE PERMIT

WUP NO. 574

### PERMITTEE

Permittee/Water User	Landowner of Source
Address <u>Kenneth Sikes</u>	Address <u>Kenneth Simon</u>
<u>98-023 Hekaha St., #F-2</u>	<u>96-239 Waiawa St., #F-1</u>
<u>Aiea, HI 96701</u>	<u>Pearl City, HI 96701</u>

### PERMITTED SOURCE INFORMATION

Island	<u>Oahu</u>
Water Management Area	
Aquifer Sector	<u>Pearl Harbor</u>
Aquifer System	<u>Waipahu-Waiawa</u>
System Sustainable Yield	<u>104</u>
Well Name	<u>Pearl City</u>
State Well No.	<u>2358-36</u>

### PERMITTED USE INFORMATION

Reasonable beneficial use	<u>Domestic (based on 8 residences)</u>
Withdrawal (12 month moving ave.)	<u>0.004</u> Mgd
Location of water use	
TMK #	<u>9-6-3:8</u>
Address	<u>96-239 Waiawa Road</u>
State land use classification	<u>Urban</u>
County zoning classification	<u>R-5</u>

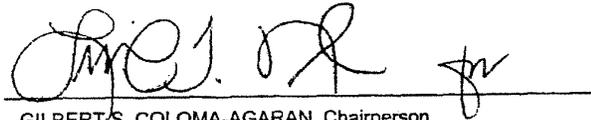
Pursuant to Hawaii's State Constitution, Article XI, Section 7, Hawaii Revised Statutes, Chapter 174C; Hawaii Administrative Rules, Chapters 13-167 through 13-171; and Hawaii decisional law and custom, the permittee is hereby authorized to use ground water from the sources and in the amount and from and upon the locations described above; subject however, to the requirements of law including but not limited to the following conditions:

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization which is both reasonable and consistent with State and County land use plans and the public interest." (HRS § 174C-3)
2. The right to use ground water is a shared use right.
3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
  - a. Can be accommodated with the available water source;
  - b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
  - c. Will not interfere with any existing legal use of water;
  - d. Is consistent with the public interest;
  - e. Is consistent with State and County general plans and land use designations;
  - f. Is consistent with County land use plans and policies; and
  - g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).
4. The ground-water use here must not interfere with surface or other ground-water rights or reservations.
5. The ground-water use here must not interfere with interim or permanent instream flow standards. If it does, then:
  - a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
  - b. The interim or permanent instream flow standard, as applicable, must be amended.
6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.
7. The water use permit application and submittal, as amended, approved by the Commission at its December 19, 2001 meeting are incorporated into this permit by reference.
8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
  - a. protect the water sources (quantity or quality);
  - b. meet other legal obligations including other correlative rights;
  - c. insure adequate conservation measures;
  - d. require efficiency of water uses;
  - e. reserve water for future uses, provided that all legal existing uses of water as of June, 1967 shall be protected;
  - f. meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
  - g. carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.
10. An approved flowmeter(s) must be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis (attached).
11. This permit shall be subject to the Commission's periodic review of the Waipahu-Waiawa Aquifer System's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the Waipahu-Waiawa Aquifer System, or relevant modified aquifer(s), is reduced.
12. A permit may be transferred, in whole or in part, from the permittee to another, if:
  - a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
  - b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.
13. The use(s) authorized by law and by this permit do not constitute ownership rights.

14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances which will affect the permittee's water use.
15. The permittee understands that under HRS § 174C-56(4), that partial or total nonuse, for reasons other than conservation, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period of forfeiture.
16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Waipahu-Waiawa Ground-Water Management Area.
17. The water use permit shall be subject to the Commission's establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.
18. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.
19. Special conditions in the attached cover transmittal letter are incorporated herein by reference.



GILBERT S. COLOMA-AGARAN, Chairperson  
Commission on Water Resource Management

Attachment

cc: Kenneth Simon

EDUARDO J. CAYELANO  
GOVERNOR OF HAWAII



GILBERT S. COLOMBAGARAN  
CHAIRPERSON

BRUCE S. ANDERSON  
MEREDITH J. OHMS  
CLAYTON W. DELA CRUZ  
BRIAN C. NISHIDA  
HERBERT M. RICHARDS, JR.

LINNEE T. NISHIOKA  
COMMISSIONER

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
P.O. BOX 621  
HONOLULU, HAWAII 96808

August 28, 2002

Mr. Kenneth Simon  
c/o Kenneth Sikes  
98-023 Hekaha St. #F2  
Aiea, HI 96701

Dear Mr. Sikes:

2358-35,36,44 resp let  
COMMISSION ON WATER  
RESOURCE MANAGEMENT  
RECEIVED  
JAN 29 4:05:59

We are writing to request that you submit a water shortage plan for the Pearl City Wells (Well Nos. 2358-35,36,44), as required under Administrative Rule §13-171-42(c), which states:

*"All permittees, unless exempted by the Commission, shall submit a water shortage plan outlining how it will reduce its own water use in case of a shortage. Every water shortage plan shall be subject to approval or modification by the Commission."*

Your water shortage plan should identify what you are willing to do should the Commission declare a water shortage situation in the Waipahu-Waiawa Ground-Water Management Area. In a water shortage situation, the Commission may require temporary reductions in pumpage from all sources. The Commission is required, by law, to formulate a plan to implement such area-wide reductions, which shall consider and incorporate appropriate provisions set forth within your water shortage plan for implementation. Therefore, your help in submitting a water shortage plan will be beneficial in the Commission's formulation of an overall Water Shortage Plan. At a minimum, we request that you identify the percent reduction (e.g. 5%, 10%, 15%, etc.) in water use that can be sustained indefinitely during a water shortage situation by filling in the following table:

Mr. Kenneth Simon

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Well Name (Well No.)	Permitted Use	Allocation (cgsd)	Percent Reduction in Water Use
Waipahu (2358-35 & 44)	Irrigation	0.040	50% IF VEGETATED
Waipahu (2358-36)	Domestic	0.004	⊗ NONE

After you have filled in the last column on the above table, please make a copy of this letter and return it to us at the above address. Please retain the original for your records.

Please respond to this letter within the next thirty (30) days. If there are any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

LINNEL T. NISHIOKA  
Deputy Director

LN:ss