CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Michael Andrue Knysh and Leslie Darr Knysh
Address P.O. Box 231003, Encinitas, CA 92023-1003
Project Name(*) 223 & 223A Kaelepulu Drive Condominium
Address 223 Kaelepulu Drive, Kailua, Hawaii 96734

Registration No. 5050 (Conversion)
Effective date: January 20, 2004
Expiration date: February 20, 2005

Preparation of this Report:

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

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

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

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

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

Type of Report:

____ **PRELIMINARY:** (yellow)
The Developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

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

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

And
[ ] Supersedes all prior public reports
[ ] Must be read together with
[ ] This report reactivates the _____ public report(s) which 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 [x] 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.

[X] No prior reports have been issued by the developer.

[ ] Changes made are as follows:

SPECIAL ATTENTION

This is a **CONDOMINIUM PROJECT**, not a subdivision. It does not involve the sale of individual subdivided lots. The land area beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

1. 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 been complied with.

2. Facilities and improvements normally associated with county approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc. may not necessarily be provided for, and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

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

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General Information on Condominiums

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

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

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

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

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

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

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

Operation of the Condominium Project

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Michael Andrue Knysh and Leslie Darr Knysh
Name*
Phone: None. (Business)
P.O. Box 231003
Business Address
Encinitas, CA 92023-1003

Names of officers or general partners 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):

Not applicable.

Real Estate Broker*: None. See page 20.
Name
Phone: (Business)
Business Address

Escrow: Title Guaranty Escrow Services, Inc.
Name
Phone: (808) 521-0211 (Business)
235 Queen Street
Business Address
Honolulu, HI 96813

General Contractor*: Not Applicable
Name
Phone: (Business)
Business Address

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

Attorney for Developer: D. Scott MacKinnon, Esq./Stacey Hee
McCorriston Miller Mukai MacKinnon LLP
Name
Phone: (808) 529-7300 (Business)
P.O. Box 2800
Business Address
Honolulu, HI 96803-2800

* 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._____ Book _____ Page _____

[x] Filed - Land Court: Document No. 2840541

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

First Amendment to Declaration of Condominium Property Regime of 223 & 223A Kaelepulu Drive Condominium dated October 6, 2003, filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3014762.

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. _____

[x] Filed - Land Court Condo Map No. 1504

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

First Amendment to Declaration of Condominium Property Regime of 223 & 223A Kaelepulu Drive Condominium dated October 6, 2003, filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3014762.

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. _____ Book _____ Page _____

[x] Filed - Land Court: Document No. 2840542

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

N/A.

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 [x] 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:

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

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

2. Developer:

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

[x] Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules.

1. The right to successively amend the Declaration (including the Bylaws and, when applicable, the Condominium Map), without the consent, approval or joinder of the persons then owning or leasing the apartments, to file the "as built" verified statement (with plans, if applicable) required by Section 514A-12, Hawaii Revised Statutes, as amended. See Paragraph Q of Declaration for more detail.

2. The right to choose and employ the first Managing Agent for the Project. See Section 7.2C of the Bylaws.

III. THE CONDOMINIUM PROJECT

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

[X] 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 a new lease of the land with the lessee (apartment owner). The developer may lease 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: 223 Kaelepulu Drive
Kailua, Hawaii 96734 Tax Map Key (TMK): (1) 4-3-007:050

[ ] Address [ ] TMK is expected to change because _____

Land Area: 8,220 [X] square feet [ ] acre(s) Zoning: R-10 (Residential)

Fee Owner: Michael Andrue Knysh and Leslie Darr Knysh
Name
P.O. Box 231003
Address
Encinitas, CA 92023-1003

Lessor: N/A
Name

Address

C. **Buildings and Other Improvements**

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

2. Number of Buildings: 2 Floors Per Building 1
[ ] Exhibit _____ contains further explanations.

3. Principal Construction Material:

[x] Concrete [ ] Hollow Tile [x] Wood
[x] Other plaster board and masonite

4. Uses Permitted by Zoning:

		No. of Apts.	Uses Permitted By Zoning	
[x]	Residential	1	[x] Yes	[ ] No
[ ]	Commercial		[ ] Yes	[ ] No
[ ]	Mix Res/Comm		[ ] Yes	[ ] No
[ ]	Hotel		[ ] Yes	[ ] No
[ ]	Timeshare		[ ] Yes	[ ] No
[x]	Ohana	1	[x] Yes	[ ] No
[ ]	Industrial		[ ] Yes	[ ] No
[ ]	Agricultural		[ ] Yes	[ ] No
[ ]	Recreational		[ ] Yes	[ ] No
[ ]	Other:		[ ] Yes	[ ] No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?
[x] Yes [ ] No

5. Special Use Restrictions:

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

[X] Pets: See Section 9.1G of the By-Laws

[ ] Number of Occupants:

[x] Other: There were no use restrictions when the ohana permit was issued; however, a zoning adjustment is required under Chapter 21, Section 21-2.140-1(I) of the Land Use Ordinance to rebuild the ohana dwelling. See Section 20 for a summary of these restrictions. In addition, please see, Condominium Declaration and Bylaws, especially Section 9.1 regarding use restrictions. Copies of the Condominium Declaration and Bylaws have been filed with the Real Estate Commission and are available upon request.

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 2 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
223	1	3 / 1.5	1,031	704**	
223A	1	2 / 1	828	382***	

Total Number of Apartments: 2

** The lanai is 264 square feet and the carport is 440 square feet.
*** The covered deck is 304 square feet and the open deck is 78 square feet.

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

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

All floor area figures are approximate.

Boundaries of Each Apartment: See Exhibit A.

Permitted Alterations to Apartments: See Exhibit B.

Apartments Designated for Owner-Occupants Only: Not Applicable

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 4

	Regular		Compact		Tandem*		TOTAL
	Covered	Open	Covered	Open	Covered	Open	
Assigned (for each unit)	2*	2**					4
Guest							
Unassigned							
Extra for Purchase							
Other:							
Total Covered & Open	4		0		0		4

* Assigned to Apartment No. 223
** Assigned to Apartment No. 223A

Each apartment will have the exclusive use of at least 2 parking stall(s).
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:

[X] There are no recreational or common facilities.

[ ] Swimming pool [ ] Storage Area [ ] Recreation Area
[ ] Laundry Area [ ] Tennis Court [ ] Trash Chute/Enclosure(s)
[ ] Other: _____

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

[x] 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):

See Exhibit C.

11. Conformance to Present Zoning Code

a. [X] No variances to zoning code have been granted.

[ ] Variance(s) to zoning code was/were granted as follows:

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

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

	Conforming	Non-Conforming	Illegal
Uses	x		
Structures	x		
Lot	x		

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 ____

[X] as follows: The Common Elements of the Project include the following: (1) the land in fee simple underlying the Project (unless designated as a limited common element in the Declaration); (2) yard areas (unless designated a limited common element in the Declaration); (3) the walkways and landscaping; (4) all driveways and roadways; (5) all vents, shafts, sewer lines, electrical equipment, pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas (if any), water, cablevision (if any), sewer, refuse, telephone, and radio and television signal distribution (if any); and (6) any and all other apparatus and installations existing for common use and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

The total area of the project is 8,220 square feet. The two apartment units, along with their respective limited common areas, are 7,207 square feet. There remaining 1,013 square feet of the project consists of a common driveway which is a common area of the project.

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.

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

[ ] described in Exhibit _____

[X] as follows: All parts of the Condominium except the Apartments are called "*Common Elements*". Some Common Elements, called "*Limited Common Elements*", are designated and set aside for the exclusive use of certain Apartments. Except as otherwise specifically provided in the Declaration, those Apartments have the exclusive right to use the Limited Common Elements set aside for their use. These Common Elements are Limited Common Elements:

1. Apartment 223. These Common Elements are Limited Common Elements appurtenant to and are set aside for the exclusive use of Apartment 223:

   a. The lands underlying Apartment 223.
   b. The yard area outlined in "green" on the site plan forming a part of the Condominium Map, being approximately 3,449 square feet.
   c. The mailbox having the same number as the Apartment.

2. Apartment 223A. These Common Elements are Limited Common Elements appurtenant to and are set aside for the exclusive use of Apartment 223A:

   a. The lands underlying Apartment 223A.
   b. The yard area outlined in "yellow" on the site plan forming a part of the Condominium Map, being approximately 3,758 square feet.
   c. The mailbox having the same number as the Apartment.
   d. Two standard parking stalls assigned to the Apartment.

3. Common Interest; Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium 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 ___

[X] as follows:

Apartment No. 223 58.9% Apartment No. 223A 41.1 %

Except as otherwise provided by law or in the Declaration or elsewhere in these Bylaws, the Common Expenses will be charged to the Owners in proportion to the Common Interests appurtenant to their respective Apartments.

E. **Encumbrances Against Title**: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit D described the encumbrances against the title contained in the title report dated January 14, 2003 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

[X] There are blanket liens which may affect title to the individual apartments.

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

Type of Lien	Effect on Buyer's Interest and Deposit of Developer Defaults or Lien is foreclosed **Prior to Conveyance**
1. Mortgage dated August 24, 1999 in favor of International Savings and Loan Association, Limited, filed as Land Court Document No. 2571421.	
2. Second Mortgage dated August 24, 1999 in favor of Charles Fredrick Gayton and Ann Louise Gayton, filed as Land Court Document No. 2571422.	

Lender (mortgagee) has the right to foreclose and to eliminate a buyer's rights under any sales contract. Lender has priority over Buyer's rights under a sales contract, and has a right to terminate sales contracts upon foreclosure of its mortgage before an apartment sale is closed. Should the lender terminate Buyer's sales contract, Buyer shall be entitled to a refund of all deposits, less escrow cancellation fee.

F. **Construction Warranties:**

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

1. Building and Other Improvements: None.
2. Appliances: None.

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

Apartment 223 was completed in 1965.
Ohana Apartment 223A was completed in 1982.

H. **Project Phases**:

The developer [ ] has [X] has not reserved the right to add to, merge, or phase this condominium

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

None.

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 of 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
[X] self-managed by the Association of Apartment Owners
[ ] the Developer or the Developer's affiliate
[ ] 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 ___E___ contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. **Utility Charges for Apartments**:

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

[ ] None [X] Electricity (___ Common Elements only ___X___ Common Elements & Apartments)

[X] Gas (___ Common elements only ___X___ Common Elements & Apartments)

[X] Water [X] Sewer [ ] Television Cable

[X] Other: Any other utility services and utilities that the Board deems necessary.

V. MISCELLANEOUS

A. **Sale 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 August 1, 2002
Exhibit F 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.

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

A) Condominium Public Reports issues by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
B) Declaration of Condominium Property Regime, as amended.
C) Bylaws of the Association of Apartment Owners, as amended.
D) House Rules, if any.
E) Condominium Map, as amended.
F) Escrow Agreement.
G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
H) Other:

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 agents, if any. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is part of Registration No. 5050 filed with the Real Estate Commission on March 12, 2003.

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

[ ] YELLOW paper stock [x] WHITE paper stock [ ] PINK paper stock [ ] GREEN paper stock

C. **Additional Information Not Covered Above**

Rebuilding or Expansion of Apartment Units. The apartment units are considered to be ohana dwelling units under the Land Use Ordinance and were built under a special permit allowing these types of units on the property. There are restrictions with respect to the rebuilding and expansion of ohana dwelling units set forth in the Land Use Ordinance. A summary of the current restrictions have been provided below, however, in the event that any rebuilding or expansion is contemplated, a buyer should first closely examine the specific requirements set forth in the Land Use Ordinance in effect at that time.

1. Rebuilding. Any ohana dwelling unit that is destroyed by any means to the extent of more than 50 percent of the unit's replacement value may be rebuilt to its previously existing dwelling type under the following conditions:

a. It can be demonstrated that the apartment unit was legally constructed.

b. It can be demonstrated that the replacement apartment unit will meet all current underlying district standards including but not limited to height limits, required yards and setbacks, maximum building area and parking.

c. Any apartment unit rebuilt pursuant to Section 21-1.40(i) of the Land Use Ordinance, as amended, shall not be expanded to increase the floor area beyond the larger of: (i) The floor area shown on approved building plans prior to its destruction; or (ii) The current maximum floor area for ohana dwellings in the applicable residential zoning district.

2. Expansion. The apartment units may not be expanded pursuant to Section 21-1.40(i) of the Land Use Ordinance.

Common Interest. As stated above, each apartment will have appurtenant to it a percentage interest in all common elements of the Project. This interest is the apartment's "common interest." The amount of the common interest will be the same proportionate share in all common profits and expenses that such apartment has in the project, including voting. Currently, the common interest of Apartment No. 223 is 58.9%, and the common interest of Apartment No. 223A is 41.1%. Some matters relating to the project are decided based upon a majority vote of the owners. Assuming that both owners vote on a matter requiring a majority vote of owners (meaning over 50% of the vote), the decision of Apartment No. 223 will always control since Apartment No. 223 will have 58.9% (over 50% of the vote). This means that the owner of Apartment No. 223 will be able to unilaterally decide matters, including but not limited to, (1) the removal a director, (2) whether to allow a director or officer of the Association to receive compensation from the Association for acting as a Director, (3) whether to authorize the Association or the managing agent may enter into a contract with someone else to furnish goods or services for the common elements or to the Association for a period longer than one year, (4) whether to authorize the Association to incur aggregate expenditures for capital improvements to the common elements in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year, (5) whether to authorize the Association to sell property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year, and (6) whether to allow the Board to authorize the alteration, addition, maintenance, repair or replacement of the common elements reasonably estimated to cost in excess of ten thousand dollars.

Disclosure Regarding Selection of Real Estate Broker. The Developer does not presently intend to use a real estate broker for the sale of apartments in the Project. In the event the Developer chooses to use a real estate broker for the sale of an apartment, prior to entering into a binding contract for such sale, the Developer shall (1) submit to the Real Estate Commission a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, together with a duly executed disclosure abstract identifying the designated broker, and (2) provide a copy of the disclosure abstract to the purchaser together with a copy of this public report.

Hazardous Materials. The Developer neither prepared nor commissioned a Phase 1 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, organizing compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other "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.

Lead Warning Statement. Pursuant to federal law, 42 U.S.C. 4852(d), the Residential Lead-Based Paint Reduction Act, "[e]very 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 hazardous 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."

D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-~~1.0~~. (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 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.

Michael Andrue Knysh
MICHAEL ANDRUE KNYSH

Leslie Darr Knysh
LESLIE DARR KNYSH

12/15/03
Date

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

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

Apartment Boundaries

1. **Apartment 223:** Apartment 223 consists of an Apartment interior, a lanai and a carport.

   a. The boundaries of the Apartment interior consist of the interior (decorated or unfinished) surface of the perimeter walls, windows, doors (and their doorframes), floors, and ceilings.

   b. The lanai boundaries consist of the interior surface of all perimeter walls which do not separate the interior of the residential apartments from the lanai, from the exterior surface of all perimeter walls which separate the interior of the residential apartments from the lanai, and from the exterior edge of the exterior railings or other boundaries of the lanai.

   c. The boundaries of the carport consist of the interior surface of the perimeter walls, doors, floors, and ceilings.

2. **Apartment 223A:** Apartment 223A consists of an Apartment interior, an open deck and a covered deck.

   a. The boundaries of the Apartment interior consist of the interior (decorated or unfinished) surface of the perimeter walls, windows, doors (and their doorframes), floors, and ceilings.

   b. The lanai boundaries consist of the interior surface of all perimeter walls which do not separate the interior of the residential apartments from the lanai, from the exterior surface of all perimeter walls which separate the interior of the residential apartments from the lanai, and from the exterior edge of the exterior railings or other boundaries of the lanai.

3. **Apartments shall include:** The respective apartments shall include the undecorated or unfinished surfaces of the roof, perimeter or party walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, supports, floors and ceilings of the residential building containing such apartment. Each apartment shall also be deemed to include all the doors and door frames, windows and window frames, louvers (if any), shutters (if any), panel, the open decks shown on the Condominium Map to the unfinished exterior edge of the exterior railings or other boundaries of such open decks, and all fixtures originally installed therein.

4. **Apartments shall not include**: The respective apartments shall not be deemed to include any pipes, wires, conduits or other utility or service lines running through or otherwise located within each such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided.

Exhibit B

ALTERATIONS TO APARTMENTS

1. **GENERALLY.** It is intended that the exterior of the buildings will have a uniform appearance. Therefore, the Board must approve any painting (including the type and color of any paint used) or repair or alteration of the exterior of an Apartment, even if they are Limited Common Elements or part of the Apartments.

2. **PERMITTED ALTERATIONS.** An Apartment Owner may make additions, alterations or improvements solely within his Apartment or within a Limited Common Element appurtenant to and for the exclusive use of his Apartment: (i) At his sole cost and expense; (ii) With the approval of the Board; (iii) In accordance with the requirements of the Declaration and the Condominium Property Act; and (iv) In accordance with all applicable building code requirements of the City and County of Honolulu.

3. **PROHIBITED ALTERATIONS.** Subject to the Condominium Property Act, no Owner may make any alteration or addition: (i) to his Apartment that adversely affects the Common Elements or changes the exterior appearance of the Owner's Apartment or the Project; or (ii) to any of the Common Elements including, without limitation, Common Elements within, encompassing or adjacent to the Owner's Apartment. Unless otherwise permitted by the Condominium Property Act, no Owner shall do any work which could jeopardize the soundness or safety of the Project, reduce the value the Project, or impair any easement, nor may any Owner add any material structure or excavate any additional basement or cellar, without in every such case obtaining the prior consent of 75% of the Apartment Owners, together with the prior consent of all Owners whose Apartment of Limited Common Elements there are directly affected.

4. **BOARD APPROVAL.** An Owner must not begin work on any alterations, additions or improvements that require Board approval until after: (i) The Owner submits a written request for Board approval, which request must include plans and specifications depicting or showing the proposed alteration, addition or improvement; and, (ii) The Board (or a subcommittee of the Board) approves the request in writing or the Board is deemed to have approved the request due to the passage of a certain amount of time as provided in the By-Laws.

TO WHOM IT MAY CONCERN

FROM: Tom Hackett, Architect

DATE: March 5, 2002

I have inspected the buildings at 223 & 223 A Kaelepulu Condominium in Kailua, Oahu, Hawaii, and my observations during this inspection are as follows:

1. From my visual inspection of the existing buildings, the buildings appear to be in good structural condition.
2. The electrical and plumbing systems appear to be in good working order.
3. I am making no statement or representations with regard to the expected useful life of the structures.

Very truly yours,

Tom Hackett

Architect
Registration No. AR 6029

Exhibit C

Exhibit D

ENCUMBRANCES ON TITLE

The Preliminary Title Report prepared by Title Guaranty of Hawaii, Inc. and submitted to the Commission discloses the following as encumbrances against title to the lands of the Project:

1. Any and all Real Property Taxes that may be due and owing.

2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:
   INSTRUMENT : ENCROACHMENT AGREEMENT
   DATED : August 19, 1999
   FILED : Land Court Document No. 2571419
   PARTIES : CHARLES FREDRICK GAYTON and ANN LOUISE GAYTON, husband and wife, and RICHARD NASH FREEMAN and ADRIENNE DAWN FREEMAN, husband and wife

3. MORTGAGE
   LOAN/ACCOUNT NO. 30-09-00322537
   MORTGAGOR : MICHAEL ANDRUE KNYSH and LESLIE DARR KNYSH, husband and wife
   MORTGAGEE : INTERNATIONAL SAVINGS AND LOAN ASSOCIATION, LIMITED, a Hawaii corporation
   DATED : August 24, 1999
   FILED : Land Court Document No. 2571421
   AMOUNT : $348,750.00

4. SECOND MORTGAGE
   MORTGAGOR : MICHAEL ANDRUE KNYSH and LESLIE DARR KNYSH, husband and wife
   MORTGAGEE : CHARLES FREDRICK GAYTON and ANN LOUISE GAYTON, husband and wife
   DATED : August 24, 1999
   FILED : Land Court Document No. 2571422
   AMOUNT : $69,750.00

5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT :	DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "223 & 223A KAELEPULU DRIVE CONDOMINIUM" CONDOMINIUM PROJECT
DATED:	---acknowledged June 26, 2002
FILED:	Land Court Document No. 2840541
MAP:	1504 and any amendments thereto

7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT :	BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS
DATED:	June 26, 2002
FILED:	Land Court Document No. 2840542 matters which a correct survey or archaeological study would disclose.

Exhibit E

Estimate of Initial Maintenance Fees
And
Estimate of Maintenance Fees Disbursements

ESTIMATE OF INITIAL MAINTENANCE FEES:

Apartment	Monthly Fee x 12 months =	Yearly Total
223	$ 100.00	$ 1200.00
223A	$ 100.00	$ 1200.00

ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS:

Apartment	Monthly Fee x 12 months =	Yearly Total
223	$ 100.00	$ 1200.00
223A	$ 100.00	$ 1200.00

The developer has not conducted a reserve study.

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

Date: December 15, 2003

MICHAEL KNYSH

Date: December 15, 2003

LESLIE DARR KNYSH

Exhibit F

Summary of Escrow Agreement and Deposit Receipt and Contract of Sale

Copies of the executed Escrow Agreement and specimen Deposit Receipt and Contract of Sale (referred to herein as the "Sales Contract") have been submitted as part of the registration. The Escrow Agreement is dated August 1, 2002 and identifies Title Guaranty Escrow Services, Inc., as the Escrow Agent for the sales of the apartments in the condominium project.

It is incumbent upon buyers and prospective buyers to read these documents with care. The Escrow Agreement establishes how the proceeds from the sale of the apartments are placed into escrow, as well as the retention and disbursement of these funds. The specimen Sales Contract determines, among other things, the time for and amount of payments on the purchase price, and for payment of all closing costs.

When a buyer signs a Sales Contract, the buyer also adopts the Escrow Agreement, just as if the buyer had signed the Escrow Agreement. A buyer should make time to read the Escrow Agreement and his/her Sales Contract.

Some of the key provisions of the Escrow Agreement and the Sales Contract may be summarized as follows:

I. Summary of Escrow Agreement

(1) Deposit of Funds with Escrow Agent.

The Developer must give the Escrow Agent any monies received by the Developer from any buyer in connection with a Sales Contract.

The Developer may direct the Escrow Agent to deposit such funds in accounts at a federally insured bank, savings and loan association or other financial institution located in Honolulu, Hawaii, that pays interest on deposits. However, any interest earned on funds delivered to the Escrow Agent will accrue to the credit of Developer, unless a buyer requests that the Escrow Agent establish a separate account for the buyer in which case such buyer must pay to the Escrow Agent a fee of Twenty-Five Dollars ($25.00) for each separate account.

(2) Release of Buyer's Funds. The Escrow Agent will not make any disbursement of a buyer's funds, unless and until all of the following conditions have been satisfied: (a) The Real Estate Commission shall have issued an effective date for the Final Public Report for the project, and the subject buyer is given a copy of said Final Report and acknowledges receipt of same and waives Buyer's right to cancel the Sales Contract or is deemed to have acknowledged receipt of same and to have waived Buyer's right to cancel the Sales Contract pursuant to HRS Section 514A-62; (b) Developer or Developer's attorney shall have delivered a written opinion to Escrow Agent stating that the requirements of HRS Sections 514A-62 and 514A-63, as amended, have been satisfied (if required by Escrow Agent); and (c) Developer shall have given Escrow Agent a written waiver of any option reserved in any Sales Contract in favor of Developer to cancel the subject Sales Contract.

(3) Deposit of Funds.

Each buyer shall be entitled to the return of funds deposited by such buyer with Escrow Agent (with interest to the extent provided in the Sales Contract), in the event that any one of the following occurs: (a) the Developer and the buyer instruct the Escrow Agent, in writing, to return the funds to such buyer; or (b) the Developer notifies the Escrow Agent of the Developer's exercise of the option to cancel or rescind the Sales Contract pursuant to any right of cancellation or rescission available to the Developer with respect to which, in accordance with the Sales Contract, the buyer is entitled to a return of funds deposited by it with Escrow Agent; or (c) the buyer exercises its right to cancel the Sales Contract pursuant to either Section 514A-62 or 514A-63 of the Hawaii Revised Statutes.

If a buyer is entitled to a return of funds from the Escrow Agent, the Escrow Agent will deliver to the buyer all funds received from the Buyer, less (if specified in the Sales Contract), a cancellation fee of not less than Twenty-Five Dollars ($25.00) per apartment or a cancellation fee commensurate with the work done by Escrow Agent prior to such cancellation, whichever fee is greater, up to a maximum of Two Hundred Fifty Dollars ($250.00).

(4) Cancellation Due to Buyer's Default. Upon receipt of any notice from the Developer that a buyer is under an obligation to make a payment pursuant to the Sales Contract, the Escrow Agent will promptly notify the buyer of the amount and due date of such payment. If the buyer fails to make such payment to the Escrow Agent on or before the due date or if the buyer fails to satisfy any obligation being handled by the Escrow Agent, the Escrow Agent will notify the Developer of the failure on the part of such buyer. The Developer may then certify in writing to the Escrow Agent that the Developer has terminated the Sales Contract. At this point, the Escrow Agent will treat all funds of such buyer paid on account of the buyer's Sales Contract as funds of the Developer.

(5) Fees. The premium for each title policy issued by the Escrow Agent with respect to an apartment is $500.00. The additional cost for issuance of the ALTA lender's title insurance policy concurrently with the Hawaii standard owner's title insurance policy is $100.00, plus the applicable taxes. However, the title insurance premiums listed in the Escrow Agreement may change if special endorsements or additional title services are requested.

(6) Protection of the Escrow Agent. Escrow Agent will not be liable for acting in accordance with the Escrow Agreement and will not be responsible for the validity or sufficiency of any Sales Contracts or other documents received by the Escrow Agent. The Developer may cause each buyer to pay the Escrow Agent on demand and to indemnify and hold harmless the Escrow Agent from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature reasonably suffered or incurred in connection with or arising out of the escrow.

(7) Closing.

The Escrow Agent will deliver to the Developer and to each buyer a commitment to issue at closing a Hawaii standard owner's title insurance policy, in the full amount of the purchase price, insuring that such buyer has good and marketable title to the apartment being purchased and, if the purchase of the apartment is being financed, an ALTA lender's title insurance policy, which shall contain no exceptions to title other than the "Permitted Encumbrances" defined in the Sales Contract.

When the Escrow Agent receives (a) an executed conveyance document for an apartment, (b) a receipt of Final Public Report, (c) all necessary releases of any construction loan mortgage and related security interests relating to or affecting such apartment, (d) the Escrow Agent's commitment to issue the Title Policy at closing, (e) the full amount of the purchase price for such apartment, and (f) the buyer's share of the closing costs, the Escrow Agent will close the sale of such apartment by undertaking the following:

1. Cause the recording of such releases, conveyance document and mortgage(s) to finance such purchase (if any); and

2. After recordation, the Escrow Agent will: (i) Cause the Title Policy and a copy of said conveyance document to be delivered to such Buyer; and (ii) Deliver a copy of said conveyance document, the release or partial releases, if any, to the Developer (if requested); and (iii) Disburse all sums relating to the purchase of the apartment, less the Developer's share of the closing costs, to the Developer.

II. Summary of Sales Contract

The Sales Contract provides that:

(1) Payment of Purchase Price Using Cash. If the buyer intends to pay the balance of the purchase price by way of cash only, then the buyer must supply all credit and other information requested by Developer to provide Developer with assurance acceptable to the Developer in its sole discretion that buyer will be able to pay the purchase price in full at closing. Failure by the buyer to provide this assurance may result in the termination of the Sales Contract.

(2) Payment of Purchase Price Using Financing. If the purchase price will be paid by way of financing received from a lending institution, then the buyer will be solely responsible for obtaining such financing. If the buyer's application for financing is not approved within sixty (60) days after the date of the Sales Contract, then either the Developer or the buyer may terminate this Agreement by written notice to the other. The buyer's option to terminate the Sales Contract must be exercised, if at all, by the buyer giving written notice of such exercise to the Developer and Escrow Agent within seventy (70) days after the date of the Sales Contract. If the buyer does not timely exercise this option, then the risk of not obtaining a loan commitment shall be solely the buyer's, and no inability to obtain financing, nor loss, withdrawal or termination of any loan commitment, whether due to failure of its express conditions or otherwise, shall relieve the buyer of any of its obligations or duties under the Sales Contract or entitle the buyer to any refund of any payments or deposits it has made.

(3) Additional Sums to be Paid. At closing, the buyer shall also pay the following amounts: (a) One-half (1/2) of Escrow Company's escrow fees; (b) Cost of preparing any applicable promissory note and mortgage, if any, to the lending institution providing financing to the buyer and all points, fees and other sums required by such lending institution, if applicable; (c) Recording costs for recording the Deed and Mortgage (if any); (d) Notary public fees for acknowledgments of the buyer's signature(s); (e) Cost of title insurance; (f) Any applicable State of Hawaii conveyance tax; (g) the buyer's pro rata share of real property taxes; and (h) the buyer's non-refundable, non-transferable "start-up" contribution for the Association common expense reserve in an amount equal to not less than two (2) months' estimated assessment for common expenses.

(4) Closing. In order for closing to take place, all documents necessary for closing must be executed and all payments required under the Sales Contract must be made to the Escrow Agent at least two (2) business days prior to the closing date.

(5) What the Developer is Required to Do at Closing. The Developer will sign and deliver the Deed to the Escrow Agent, and pay one-half (1/2) of the Escrow Agent's escrow fee, the cost of preparation of the Deed, any notary public fees for acknowledgments of its own signature and any pro rata share of real property taxes and assessments for which the Developer is responsible.

(6) What Buyer is Required to Do Prior to Closing. The buyer will sign and deliver all documents which the buyer has to sign in order to close to the Escrow Agent at least 2 business days before the closing date. The buyer will also pay to the Escrow Agent the balance of the purchase price and any closing costs due.

(7) Warranties. EXCEPT AS PROVIDED IN THE SALES CONTRACT, AND EXCEPT FOR THE WARRANTY OF TITLE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE PROPERTY OR ITS CONDITION OR SUITABILITY FOR ANY PURPOSE, OR AS TO THE AVAILABILITY OF ANY SCHOOLS, FIRE OR POLICE PROTECTION, OR ANY OTHER SERVICES TO BE PROVIDED BY PERSONS OR ENTITIES OTHER THAN SELLER.

(8) Membership in the Apartment Owners Association. After closing, every condominium apartment owner will automatically become a member of the Association, a community association organized as an unincorporated association and to be comprised of property owners of the Project.

(9) Amendment of Documents. Before the closing date, the Developer may amend certain documents as specifically authorize by the buyer in the Sales Contract.

(10) Default by Buyer. If the buyer (i) fails to make any payment when it is due, or (ii) fails to keep any of the other promises or agreements of the buyer set forth in the Sales Contract and this failure continues for ten (10) days or more after the Developer notifies the buyer of this failure, then the Developer will have the right to do any of the following:

(a) The Developer may terminate the Sales Contract by giving the buyer written notice of termination. If this happens, then the Developer may keep all sums deposited by the buyer as "liquidated damages" (i.e., the amount agreed to by the buyer and the Developer as properly payable in settlement for breach of contract), and not as a penalty.

(b) The Developer may take advantage of any other rights which the law allows, including, for example, a lawsuit for actual damages suffered, or a lawsuit for "specific performance," which means a lawsuit to require the buyer to pay the full Purchase Price and keep all of the buyer's promises under this Agreement.

In the event that the Sales Contract is terminated due to a buyer's default, the buyer must pay all costs which may be incurred by the Developer because of the buyer's default, including attorneys' fees, court costs, escrow cancellation fees, and a cancellation fee of not less than $125.00 if the Deed has been prepared and delivered to the Escrow Agent.

(11) Developer's Default. If the Developer fails to keep any of the Developer's promises or agreements contained in the Sales Contract, the buyer may bring a lawsuit for "specific performance" or the buyer may cancel the Sales Contract.

(12) Joint Buyers. If there is more than one (1) person listed as the buyer, each person will be fully responsible for fulfilling all of the promises and agreements of the buyer contained in the Sales Contract. This means that any one of such persons may be required by the Developer to pay all of the amounts owed by the buyer under the Sales Contract, or to keep all of the buyer's other promises and agreements contained in the Sales Contract.

(13) Real Estate Agency Disclosures. The Developer's broker (if any), and its employees, licensees and agents, are agents of the Developer only and are not agents or subagents of the buyer and owe no fiduciary duties to the buyer.

(14) Buyer's Right to Cancel. The buyer shall have the right to cancel the Sales Contract pursuant to either Section 514A-62 or 514A-62 of the Hawaii Revised Statutes.

ALL BUYERS AND PROSPECTIVE BUYERS SHOULD READ WITH CARE ALL PROVISIONS OF THE SALES CONTRACT AND ESCROW AGREEMENT. THE ABOVE SUMMARY IS NOT INTENTED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT OR SALES CONTRACT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT AND SALES CONTRACT, A BUYER MUST REFER TO THE ESCROW AGREEMENT REFERENCED IN THE BUYER'S SALES CONTRACT TO DETERMINE HIS/HER RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT OR SALES CONTRACT, THE ESCROW AGREEMENT OR SALES CONTRACT WILL GOVERN.