

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer HYH, LLC, a Hawaii limited liability company
Address 2764 C Booth Road, Honolulu, Hawaii 96813

Project Name(\*): KALUA'AHU GARDENS
Address: 45-226 E, F, G, H, J & K William Henry Road, Kaneohe, Hawaii 96744

Registration No. 5170 (Conversion)
Effective date: September 17, 2003
Expiration date: October 17, 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: (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.
FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
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. FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203

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

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

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT and not a subdivision. The land area beneath and immediately appurtenant to each apartment unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The broken lines on the Condominium Map bounding the designated number of square feet within each limited common element land area are for illustrative purposes only, and should in no way 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 governmental 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: HYH, LLC Phone: (808) 545-3176  
Name\* (Business)  
2764 C Booth Road  
Business Address  
Honolulu, Hawaii 96813

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):

Peter J. Haines, its Member  
Kuang-Hsia Tang Huang, its Member  
Hok Yau Yeung, its Member

Real Estate Broker\*: Peter J. Haines (R) Phone: (808) 545-3176  
Name (Business)  
2764 C Booth Road  
Business Address  
Honolulu, Hawaii 96813

Escrow: First American Title Company, Inc. Phone: (808) 536-3866  
Name (Business)  
333 Queen Street, Suite 700  
Business Address  
Honolulu, Hawaii 96813

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

Condominium Managing Agent\*: Self-managed by the Association of Apartment Owners Phone: \_\_\_\_\_  
Name (Business)  
Business Address

Attorney for Developer: Anders G. O. Nervell, Esq. Phone: (808) 535-8400  
Name (Business)  
Stanton Clay Chapman Crumpton & Iwamura  
700 Bishop Street, Suite 2100  
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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	_____	
			Book	_____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No.	<u>2976592</u>	

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

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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances	Condo Map No.	_____	
<input checked="" type="checkbox"/>	Filed -	Land Court	Condo Map No.	<u>1558</u>	

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

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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	_____	
			Book	_____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No.	<u>2976593</u>	

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

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:

1. To amend the Declaration by filing an "as built" certificate (see paragraph 12.1 of the Declaration).
2. To amend the Declaration to comply with the requirements imposed by law, title insurers, lenders, etc. (see paragraph 12.2 of the Declaration).
3. To amend the By-Laws to comply with the requirements imposed by law, title insurers, lenders, etc. (see Section 10.01 of the By-Laws).

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: 45-226 E, F, G, H, J & K William Henry Road Kaneohe, Hawaii 96744 Tax Map Key (TMK): (1) 4-5-16-11

Address  TMK is expected to change because

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Land Area: 1.075  square feet  acre(s) Zoning: R-7.5

Fee Owner: HYH, LLC  
 Name  
2764 C Booth Road, Honolulu, Hawaii 96813  
 Address  
Honolulu, Hawaii 96813

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: 6 Floors Per Building: 1  
 Exhibit "A" contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other metal and allied building material

4. Uses Permitted by Zoning

	<u>No. of 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 type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other (storage sheds)	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

5. Special Use Restrictions:

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

- Pets: \_\_\_\_\_
- Number of Occupants: \_\_\_\_\_
- Other: Transient or hotel purposes and time-share purposes (see par. 7.1 of the Declaration)
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: none                      Stairways: none                      Trash Chutes: none

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>SEE EXHIBIT "A"</u>	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 6

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

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

Boundaries of Each Apartment: SEE EXHIBIT "B".

Permitted Alterations to Apartments:

Subject to restrictions in the Declaration and the By-Laws, an apartment owner may make additions to or alterations of his or her apartment or limited common elements appurtenant to such apartment. Furthermore, handicapped occupants may make reasonable modifications to their apartments, the limited common elements appurtenant thereto, and/or the common elements, at their own expense. All alterations are subject to each and every condition set forth in that certain Existing Use Permit 2002/EU-30. SEE EXHIBIT "H".

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.



11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted. SEE EXHIBIT "C"  
 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	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.

**\* Owner/Developer has applied for and received an existing use permit (Existing Use Permit 2002/EU-30) which allows the apartments to be rebuilt in the event of destruction; provided, however, that all work shall be made in accordance with, and shall conform with, the terms and conditions set forth in the existing use permit. A copy of Existing Use Permit 2002/EU-30 is attached hereto as Exhibit "H" and made a part hereof.**

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 "E" .

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 "F"\*.

as follows:

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

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

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

as follows: The common interest appurtenant to each apartment in the Project is 1/6<sup>th</sup> interest.

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

Exhibit "G" describes the encumbrances against the title contained in the title report dated June 26, 2003 and issued by First American Title Company, 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.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
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F. **Construction Warranties:**

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

1. Building and Other Improvements: None. Units to be conveyed "as is". Developer is not making any warranties on the materials and workmanship of the Units.
  
2. Appliances: None. Appliances sold "as is".

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

Dwelling Units E, F, G and H were constructed in 1962, and Dwelling Units J and K were constructed in 1964. The units are subject to an existing use permit that will allow reconstruction of the units provided compliance with certain terms and conditions. SEE EXHIBIT "H".

H. **Project Phases:**

The developer  has  has not reserved the right to add to, merge, or phase this condominium.

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



## 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:

- [ X ] Notice to Owner Occupants
- [ X ] Specimen Sales Contract  
Exhibit  "J"  contains a summary of the pertinent provisions of the sales contract.
- [ X ] Escrow Agreement dated  July 31, 2003   
Exhibit  "K"  contains a summary of the pertinent provisions of the escrow agreement.
- [ ] Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other \_\_\_\_\_

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

This Public Report is a part of Registration No. 5170 filed with the Real Estate Commission on August 14, 2003.

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

YELLOW paper stock       WHITE paper stock       PINK paper stock

C. **Additional Information Not Covered Above**

Disclosure Regarding "AS-IS" Sale. The six apartments will be conveyed in their present "as is" condition. Potential buyers are strongly urged to have a professional home inspection to ascertain the exact condition of the property.

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, 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.

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."

Reserves. Developer discloses that no "reserve study" was done in accordance with Section 514A-83.6, Hawaii Revised Statutes, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Insurance. 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 the premiums for the such insurance be common expenses. Developer anticipates that the Association will elect, pursuant to Paragraph 16.5 of the Declaration, 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. Prospective purchasers should consult with their own insurance professionals to obtain an estimate for individual fire and hazard insurance.

Access. Each Unit has access to William Henry Road through roadway Lots 30-A, 29, 27-A-3 and Easement "A", which satisfies condition 5 of Existing Use Permit No. 200/EU-30. SEE EXHIBIT "L".

Disclosure Regarding Broker License. Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Peter J. Haines is a member of the Developer/Owner(s), HYH, LLC. Peter J. Haines, RB17093, is a current and active Hawaii-licensed real estate broker. Further, that Peter J. Haines, as Sole Proprietor, is the project broker. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'."

Condominium Documents. The documents relating to the creation of this project have been reviewed by the Department of Planning and Permitting, City and County of Honolulu, and are in compliance with condition 8 of Existing Use Permit No. 200/EU-30. SEE EXHIBIT "M".

- 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 section 514A-1.6 (The developer is required to make this declaration for issuance of an effective date for a 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.

HYH, LLC

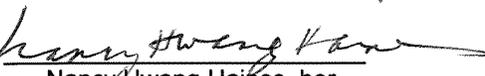
Print Name of Developer

HYH, LLC,  
a Hawaii limited liability company

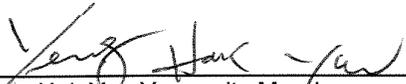
By:   
Peter J. Haines, its Member

7/31/03  
Date

By: KUANG-HSIA TANG HUANG, its Member

By:   
Nancy Hwang Haines, her  
Attorney-in-Fact

7/31/03  
Date

By:   
Hok Yau Yeung, its Member

7/31/03  
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"

### Description of Apartments

There are six (6) condominium apartments in the Project. Each of the six (6) residential dwellings contains one (1) condominium apartment. The apartments are referred to as "Dwelling Units" on the Condominium Map, and are more particularly described below:

1. Dwelling Unit E. Dwelling Unit E is a one-story dwelling containing three (3) bedrooms, one (1) bathroom, a kitchen, and a living and dining area, with a net living area of approximately 960 square feet. Dwelling Unit E has an appurtenant limited common element covered carport/lanai of approximately 550 square feet. Dwelling Unit E has two (2) appurtenant limited common element parking stalls designated in the Declaration and on the Condominium Map as Parking Stall E-1 and Parking Stall E-2 (located within the aforesaid carport). Dwelling Unit E is situated on a 6,478 square feet limited common element dwelling area as delineated on the Condominium Map.

2. Dwelling Unit F. Dwelling Unit F is a one-story dwelling containing four (4) bedrooms, two and three-quarters (2  $\frac{3}{4}$ ) bathrooms, a kitchen, den, and a living and dining area, with a net living area of approximately 1,360 square feet. Dwelling Unit F has an appurtenant limited common element covered lanai of approximately 330 square feet, and an appurtenant limited common element covered carport of approximately 440 square feet. Dwelling Unit F has two (2) appurtenant limited common element parking stalls designated in the Declaration and on the Condominium Map as Parking Stall F-1 and Parking Stall F-2 (located within the aforesaid carport). Dwelling Unit F is situated on a 10,156 square feet limited common element dwelling area as delineated on the Condominium Map.

3. Dwelling Unit G. Dwelling Unit G is a one-story dwelling containing three (3) bedrooms, one (1) bathroom, a kitchen, and a living and dining area, with a net living area of approximately 960 square feet. Dwelling Unit G has an appurtenant limited common element covered carport of approximately 440 square feet. Dwelling Unit G has two (2) appurtenant limited common element parking stalls designated in the Declaration and on the Condominium Map as Parking Stall G-1 and Parking Stall G-2 (located within the aforesaid carport). Dwelling Unit G is situated on a 5,346 square feet limited common element dwelling area as delineated on the Condominium Map.

4. Dwelling Unit H. Dwelling Unit H is a one-story dwelling containing five (5) bedrooms, one and one-half (1  $\frac{1}{2}$ ) bathrooms, a kitchen, and a living and dining area, with a net living area of approximately 1,224 square feet. Dwelling Unit H has an appurtenant limited common element covered lanai of approximately 612 square feet, and an appurtenant limited common element covered carport of approximately 400 square feet. Dwelling Unit H has two (2) appurtenant limited common element parking

stalls designated in the Declaration and on the Condominium Map as Parking Stall H-1 and Parking Stall H-2 (located within the aforesaid carport). Dwelling Unit H is situated on a 7,277 square feet limited common element dwelling area as delineated on the Condominium Map.

5. Dwelling Unit J. Dwelling Unit J is a one-story dwelling containing three (3) bedrooms, one (1) bathroom, a kitchen, and a living and dining area, with a net living area of approximately 720 square feet. Dwelling Unit J has an appurtenant limited common element covered carport of approximately 440 square feet. Dwelling Unit J has two (2) appurtenant limited common element parking stalls designated in the Declaration and on the Condominium Map as Parking Stall J-1 and Parking Stall J-2 (located within the aforesaid carport). Dwelling Unit J is situated on a 6,292 square feet limited common element dwelling area as delineated on the Condominium Map.

6. Dwelling Unit K. Dwelling Unit K is a one-story dwelling containing three (3) bedrooms, one (1) bathroom, a kitchen, and a living and dining area, with a net living area of approximately 720 square feet. Dwelling Unit K has an appurtenant limited common element covered carport of approximately 464 square feet. Dwelling Unit K has two (2) appurtenant limited common element parking stalls designated in the Declaration and on the Condominium Map as Parking Stall K-1 and Parking Stall K-2 (located within the aforesaid carport). Dwelling Unit K is situated on a 6,172 square feet limited common element dwelling area as delineated on the Condominium Map.

**END OF EXHIBIT "A"**

**EXHIBIT "B"**

**Boundaries of Each Apartment**

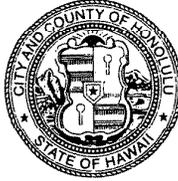
Each Dwelling Unit shall be deemed to include the building comprising the apartment, including, but not limited to: (a) all perimeter walls, floors, foundations, and roofs of each building; (b) all pipes, shafts, wires, ducts, pumps, cables, conduits, or other utility or service lines running through or outside such building which are utilized for or serve only the apartment located in that building; (c) all doors and door frames, windows (including but not limited to sliding glass doors, windows, panes, jalousies, or panels along the perimeters) and window frames; and (d) all fixtures, appliances, built-in cabinets, carpets and floor coverings, and furnishings installed in each apartment. The foregoing, as initially established or as hereafter changed pursuant to paragraph 7.4 of the Declaration, is referred to in the Declaration as a Dwelling Unit. A Dwelling Unit shall not be deemed to include any 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, water, sewer, telephone, and television signal distribution.

**END OF EXHIBIT "B"**

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.cc.honolulu.hi.us

JEREMY HARRIS  
MAYOR



ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

2003/ELOG-1757(LT)

July 16, 2003

Mr. Peter J. Haines  
HYH, L.L.C.  
2764 C Booth Road  
Honolulu, Hawaii 96813

Dear Mr. Haines:

Subject: Condominium Conversion Project  
45-226 E, F, G, H, J & K William Henry Road  
Tax Map Key (TMK): 4-5-16: 11

This is in response to your letter dated April 28, 2003 requesting verification that the structures on the above-mentioned property met all applicable code requirements at the time of construction.

Investigation revealed that the four one-story single-family detached dwellings located at 45-226 E, F, G and H William Henry Road and the two one-story single-family detached dwellings located at 45-226 J and K William Henry Road with twelve all-weather surface off-street parking spaces met all applicable code requirements when they were constructed in 1962 and 1964, respectively, on this 46,827-square foot R-7.5 Residential District zoned lot.

Investigation also revealed the following:

- 1) 2002/EU-30 was approved on February 3, 2003 with conditions for six (6) existing single-family detached dwellings.
- 2) The six single-family detached dwellings are considered nonconforming dwelling units.
- 3) Warranty Deed (Doc.#509242, 1875873) was recorded on January 10, 2003 that Lot-A-1-A (TMK: 4-5-16: 11) has access rights to William Henry Road through roadway Lots 30-A and 29 (TMK: 4-5-16: 05), Lot 27-A-3 (TMK: 4-5-16: 15) and Easement "A" (TMK: 4-5-16: 07).

**EXHIBIT " C "**

Mr. Peter J. Haines  
July 16, 2003  
Page 2

- 4) Building permits #547823, #547824, #547825, #548663 and #548668 are currently active.

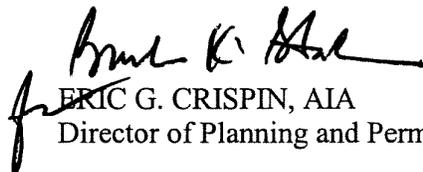
For your information, the Department of Planning and Permitting cannot determine all other legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes.

No variances or special permits were granted to allow deviation from any applicable codes.

Conversion to a condominium property regime (CPR) is not recognized by the City and County as an approved subdivision. CPR delineates ownership; it does not create a separate lot of record.

If you have any questions regarding this matter, please contact Mr. Ivan Matsumoto of our Commercial and Multi-family Code Enforcement Branch at 527-6341.

Sincerely yours,

  
ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:ft  
Doc 234119

# Scott E. A. Davis

No. 6238

4081 Koko Drive, Honolulu HI 96816 Bus: 220-9482, Fax: 735-7549

To: The Real Estate Commission, DCCA  
Condominium Branch, Room 702  
250 S. King Street, Honolulu HI 96813

Bus: 586-2646

**Re: As-Built Certificate, Floorplans & Elevations for the "Kalua'ahu Gardens" CPR project**  
**At: 45-226 – E, F, G, H, J & K William Henry Road, Kaneohe, HI 96744 TMK 145-106-011**

To Whom it may concern,

As per the Developer's instructions, a visual inspection was made of the buildings on the proposed CPR property located at: 45-226 – E, F, G, H, J & K William Henry Road, Kaneohe HI 96744

The purpose of the inspection was to examine and comment on the present state of the buildings.

The following describes my assessment of the present condition of the utility buildings:

1. The structures appear to be in good condition. The units are usable and appear to be free from major structural defects.
2. The electrical and plumbing systems appear to be functioning properly and seem to be in good condition.
3. The expected useful life is estimated to be between 30 and 50 years.

CONCLUSION: The buildings at present are in satisfactory condition with no major structural defects.

Very truly yours,

Signature Scott E. A. Davis Date: July 15, 2003

Name of Architect/Engineer: Scott E. A. Davis

Registered Professional Title: Architect

Hawaii Registration Number: 6238

**EXHIBIT "D"**

**EXHIBIT "E"**

**Description of Common Elements**

The common elements include the following located within the Project:

1. All the land described in Exhibit "A" attached to the Declaration and made a part thereof;
2. The driveway access to the apartments as shown on the Condominium Map;
3. All 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, water, sewer, telephone, and television signal distribution; and
4. Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

**END OF EXHIBIT "E"**

## **EXHIBIT "F"**

### **Description of Limited Common Elements**

The limited common elements include the following located within the Project:

1. The limited common element dwelling areas appurtenant to each of the apartments as set forth in the Declaration, consisting of the land beneath and immediately adjacent thereto (including any yard areas, landscaping, driveway, walkway, and access areas), as shown and delineated on the Condominium Map;

2. All entry, patio, deck, lanai, porch, and laundry areas appurtenant to the dwellings as more particularly shown and delineated on the Condominium Map, including any railings, steps, and ramps appurtenant to such entry, patio, deck, lanai, porch, and laundry areas;

3. All carports appurtenant to the dwellings as more particularly described in the Declaration and as shown and delineated on the Condominium Map;

4. The parking stalls appurtenant to the apartments as more particularly described in the Declaration and as shown and delineated on the Condominium Map; and

5. All other common elements of the Project which are rationally related to less than all of said apartments or buildings shall be limited to the use of such apartments or buildings.

**END OF EXHIBIT "F"**

**EXHIBIT "G"**

**List of Encumbrances Against Title**

Encumbrances against title as contained in the Commitment for Title Insurance dated June 26, 2003, and issued by First American Title Company are as follows:

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. Grant of Easement for utility purposes over and across Lot 27-A-1-A, in favor of Hawaiian Electric Company, Inc. and Verizon Hawaii, Inc., filed in said Office of the Assistant Registrar of the Land Court as Document No. 316444.

3. Easement for sanitary sewer, shown on Map No. 27, filed with Land Court Application No. 1196, as set forth by Land Court Order No. 22063, filed December 16, 1963.

4. Grant of Easement for sanitary sewer purposes over and across Lot 27-A-1-A, in favor of the City and County of Honolulu, filed in said Office of the Assistant Registrar of the Land Court as Document No. 321544.

5. The matters as shown on the Boundary Survey of Lester T. Shimabukuro, Licensed Professional Land Surveyor, dated November 21, 2002, to wit:

a. Portion of the headwall along the southerly boundary is in subject Lot 27-A-1-A by approximately 1.8 to 3.3 feet, and in Lot 49 by 2.2 feet.

**END OF EXHIBIT "G"**

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

850 SOUTH KING STREET • HONOLULU, HAWAII 96813  
 Telephone: (808) 523-4414 • Fax: (808) 527-8743 • INTERNET: www.co.honolulu.hi.us

JEREMY HARRIS  
 MAYOR



ERIC G. CRISPIN, AIA  
 ACTING DIRECTOR

BARBARA KIM STANTON  
 DEPUTY DIRECTOR

2002/EU-30(LW)

MINOR PERMIT	EXISTING USE (EU)
File Number	2002/EU-30
Project	Kaluaahuawa Gardens
Location	45-226 E, F, G, H, J & K William Henry Road - Kailua
Tax Map Key	4-5-016: 011
Zoning	R-7.5 Residential District
Applicant	Peter J. Haines
Date Accepted	December 20, 2002

**APPROVAL** is granted to the existing use, six (6) existing single-family dwellings, in accordance with the application documents (plans date-stamped December 20, 2002), 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 (EU) 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 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. A 20-foot easement over and across the roadway lots 27-A-3, 29 and 30-A, shall be established via an approved City subdivision. In the alternative, the applicant may obtain City recognition for the applicant's access rights over these lots via the Lot Determination process. This shall be completed prior to the issuance of building permit, recordation of CPR documents, or transfer of ownership, whichever comes first.

**EXHIBIT "H"**

6. An affidavit, confirming that necessary measures to correct zoning and/or building code violations have been completed, shall be submitted to the DPP, prior to the issuance of any building permit, subsequent to this approval.
7. The applicant or owner(s) shall incorporate this Existing Use Permit into the restrictive covenants which run with the land, to serve as notice to all owners and tenants. The draft covenant shall be submitted for review and approval by the Department of Planning and Permitting (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.
8. If the project will be condominiumized, the applicant or owner(s) shall submit a draft copy of the Condominium Property Regime (CPR) map and documents to the DPP for our review. Future work subsequent to the creation of a CPR may require approval from the homeowners 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.
9. All work shall comply with the applicable LUO standard for the underlying zoning district, unless otherwise stated herein:
  - (A) There shall be no further reduction or obstruction (including fences or parking) of the main access driveway, including roadway lots 30-A, 29, 27-A-3, Easement A, and the shared driveway within the project (lot 27-A-1-A);
  - (B) A 13 feet 6 inches vertical clearance shall be maintained throughout all access ways to and through the project for emergency access;
  - (C) A minimum 5-foot setback for structures shall be required from the shared driveway within the project (lot 27-A-1-A);
  - (D) No structure, wall or fence, shall be constructed within 10 feet of the existing auwai. The auwai shall be preserved in its natural state and shall not be further altered or obstructed;
  - (E) 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, two-story dwellingsIf the property is condominiumized, then, buildings shall comply with required yard and height setbacks of the underlying zoning district as measured from perimeter property lines and limited common element CPR lines; and
  - (F) Maximum building area shall not exceed 30 percent of the original lot area of 46,827 square feet. 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.
10. 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 (building area). 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.

11. A minimum of twelve (12) parking spaces, two stalls for each dwelling unit, shall be provided prior to the issuance of any building permits subsequent to this approval. Dwelling additions shall comply with the LUO parking regulations. Parking spaces within carports or garages shall not be converted into usable floor area (including garage or carport storage areas).
12. An all weather surface shall be provided at all driveways and required parking areas prior to issuance of any building permit, subsequent to this approval.
13. A fence master plan shall be reviewed and approved by the DPP prior to issuance of any permits for fences and walls subsequent to this approval. New fences within the project (lot 27-A-1-A) shall be of an open material such as chain link or wrought iron, and shall not exceed 42 inches. In no case shall a fence obstruct or further restrict vehicle access or maneuvering (including emergency vehicles). No fences/walls shall obstruct the existing auwai as noted in Condition 9.
14. 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.
15. The addition, alteration or reconstruction of any dwelling unit shall comply with Fire Department requirements for access, water and/or Fire Department connections. These improvements shall include an approved automatic fire sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings. Construction plans shall be submitted to the Fire Department for review and approval prior to issuance of building permits.
16. 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.

doc201021

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



SIGNATURE

For Acting Director

TITLE

February 3, 2003

DATE

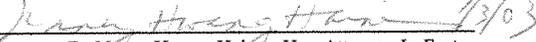
The above approval does not constitute approval of any other required permits, such as building permits.

# "Kalua'ahu Gardens" CPR

## ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

DESCRIPTION OF ITEMS	PAID BY ASSOC. OR INDIVIDUAL?	UNIT E	UNIT F	UNIT G	UNIT H	UNIT J	UNIT K	MONTHLY TOTAL
UTILITIES & SERVICES								
AIRCONDITIONING	Individual							
ELECTRICITY	Individual							
( ) Common Elements.....	Association							
( ) Common Elements.....	n/a							
and Apartments								
Gas.....	Individual							
Refuse Collection.....	Individual							
Telephone.....	Individual							
Water & Sewer.....	Association	\$55	\$55	\$55	\$55	\$55	\$55	\$330
MAINTENANCE & REPAIRS								
Buildings.....	Individual							
Driveway & Utility Lines....	Assoc.	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 42
MANAGEMENT								
Management Fee.....	n/a							
Payroll & Payroll Taxes.....	n/a							
Office Expenses.....	n/a							
COMMON ELEMENT INSUR.....	Assoc.	\$ 8	\$ 8	\$ 8	\$ 8	\$ 8	\$ 8	\$ 48
HOMEOWNER'S INSURANCE....	Individual							
RESERVES FOR PIPES & DRIVE	Assoc.	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 60
TAXES & GOVERNMT ASSESS	n/a							
AUDIT FEE.....	n/a							
<b>Total Monthly Fees / Unit</b>		<b>\$ 80</b>	<b>\$ 480</b>					
<b>Total Annual Fees ( x 12 )</b>		<b>\$960</b>	<b>\$960</b>	<b>\$960</b>	<b>\$960</b>	<b>\$960</b>	<b>\$960</b>	<b>\$5,760</b>

I/We, The Owners and Developers of the "Kalua'ahu Gardens" Condominium Project hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

<u>Name of Developer</u>	<u>Title</u>	<u>Signature</u>	<u>Date</u>
HYH, LLC	Member / Peter Haines		7/31/03
HYH, LLC	Member / Hok Yau Yeung		
HYH, LLC	Member / Kuang-Hsia T. Huang		7/3/03

By Nancy Hwang Haines, Her Attorney-in-Fact

**Reserve Study** for the Association's common driveway and utility lines has not been completed. The association is planning to study the costs to maintain and replace the common elements, and will use this study to prepare a long-term budget for the maintenance and replacement of the common elements. The common elements consist of a concrete common driveway, underground sewer and water lines. The copper water line running underneath the private roadway easements leading to William Henry Road are also to be maintained by the Association.

**Changes to Maintenance Fee Schedule:** This \$25/month/unit budget reflects the Developer's estimates of Association costs, and may be amended in the future according to the findings of the Reserve Study. This budget may be reviewed and revised by the Board of Directors on a continual basis.

### EXHIBIT 'I'

## **EXHIBIT "J"**

### **Summary of Pertinent Provisions of Sales Contract**

The sales contract contains the price, description and location of the apartment and other terms and conditions under which a buyer will agree to buy an apartment in the Project. Among other things, the sales contract provides:

1. A section for financing to be filled in and agreed to by the parties which will set forth how the buyer will pay the purchase price.

2. That a buyer's deposits will be held in escrow until the sales contract is closed or cancelled.

3. That the buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

4. That in the event of default:

If buyer defaults:

- (1) Seller may bring an action for breach of contract;
- (2) Seller may retain the deposits as liquidated damages;
- (3) Buyer is responsible for any costs incurred under the sales contract.

If seller defaults:

- (1) Buyer may bring an action for breach of contract;
- (2) Buyer may bring an action for specific performance;
- (3) Seller is responsible for any costs incurred under the sales contract.

The prevailing party is entitled to recover all costs incurred including reasonable attorney's fees. Escrow fees incurred shall be deducted before disbursement to the prevailing party.

THE SALES CONTRACT CONTAINS VARIOUS OTHER PROVISIONS WHICH THE BUYER SHOULD BECOME ACQUAINTED WITH. THE INFORMATION CONTAINED HEREIN IS ONLY A SUMMARY OF THE TERMS OF THE SALES CONTRACT. FOR MORE DETAILED INFORMATION, YOU MUST SECURE A COPY OF THE SALES CONTRACT AND READ IT THOROUGHLY.

**END OF EXHIBIT "J"**

## EXHIBIT "K"

### Summary of Pertinent Provisions of Escrow Agreement

The following is a summary of the escrow agreement dated July 31, 2003, entered into by and between HYH, LLC, a limited liability company, ("Seller"), and FIRST AMERICAN TITLE COMPANY, LTD., a Hawaii corporation ("Escrow").

The escrow agreement establishes an arrangement under which the deposits a buyer makes under a Deposit, Receipt, Offer and Acceptance ("sales contract") will be held by a neutral party (i.e., Escrow). Under the escrow agreement these things will or may happen:

- (a) Signed copies of the sales contract will be provided to Escrow.
- (b) Escrow will collect payments due pursuant to the sales contract.
- (c) Seller will notify Escrow who in turn will notify buyer when payments are due.
- (d) Escrow will accept buyer's payments pursuant to the sales contract and will hold the funds or make payments according to the escrow agreement.
- (e) The escrow agreement states under what conditions escrow will disburse buyer's funds. Escrow will disburse upon receipt of the following:
  - 1. the conveyance document;
  - 2. all necessary releases of encumbrances;
  - 3. the full amount of the purchase price;
  - 4. any mortgage or other instrument securing payment; and
  - 5. purchaser's share of the closing costs.
- (f) Under the escrow agreement buyer shall be entitled to a refund, if buyer makes a written request for a refund and Escrow has received a written request from Seller to return buyer's funds. In addition, by law, (under Sections 514A-62 and -63, Hawaii Revised Statutes) buyer has a right to rescind a sales contract.
- (g) The escrow agreement states what will happen to a buyer's funds upon default under the sales contract. Seller is required to certify to Escrow in writing that buyer defaults and that Seller is terminating the contract. Escrow will notify buyer by certified mail that Seller has cancelled contract. Escrow will treat the buyer's funds as belonging to the Seller subject to the provisions relating to dispute and conflicting demands.
- (h) Escrow will coordinate and supervise the signing of all necessary

documents.

(i) The escrow agreement sets forth Escrow's responsibilities in the event of any disputes.

THE ESCROW AGREEMENT CONTAINS VARIOUS OTHER PROVISIONS AND ESTABLISHES CERTAIN CHARGES WITH WHICH THE PURCHASER SHOULD BECOME ACQUAINTED. THE INFORMATION CONTAINED HEREIN IS ONLY A SUMMARY OF THE TERMS OF THE AGREEMENT. FOR MORE DETAILED INFORMATION, YOU MUST SECURE A COPY OF THE AGREEMENT AND READ IT THOROUGHLY.

**END OF EXHIBIT "K"**

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

ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

March 17, 2003

2003/ELOG-572  
2002/EU-30

Mr. Lester T. Shimabukuro  
Vice President  
Towill, Shigeoka & Associates, Inc.  
1270 Queen Emma Street, Suite 700  
Honolulu, Hawaii 96813

Dear Mr. Shimabukuro:

Existing Use Permit No. 2002/EU-30  
45-226 William Henry Road - Kaneohe  
Surveyor: Towill Shigeoka & Associates, Inc.  
Tax Map Key: 4-5-016: 011

We have reviewed your transmittal dated February 12, 2003, regarding the use of Lots 30-A, 29, 27-A-3 and Easement "A" by Lot 27-A-1-A for access purposes to William Henry Road, and find that it satisfies Condition 5 of the above-mentioned permit.

Based on a review of the our files (DPP File Nos. 1948/SUB-252 & 1954/SUB-484), the documents submitted with your letter dated February 12, 2003, and comments received from the Division of Land Acquisition and Survey of the Department of Design and Construction, we concur with your findings and agree that Lot 27-A-1-A has access rights to William Henry Road through roadway Lots 30-A, 29, 27-A-3 and Easement "A".

Should you have any questions, please contact Lin Wong of the Urban Design Branch at 523-4485.

Sincerely yours,

for   
ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:cs  
pdn208055

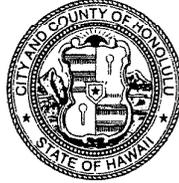
cc: DDC, LS&A (Jane Uesugi)  
✓ Peter Haines, HYH LLC

**EXHIBIT " L "**

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](http://www.co.honolulu.hi.us)

JEREMY HARRIS  
MAYOR



ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

2003/ELOG-2613 (LW)

August 11, 2003

Mr. Peter J. Haines  
HYH LLC  
2764 C Booth Street  
Honolulu, Hawaii 96813

Dear Mr. Haines:

EXISTING USE PERMIT NO. 2002/EU-30  
45-226 WILLIAM HENRY ROAD - KANEOHE  
CONDOMINIUM PROPERTY REGIME (CPR) DOCUMENTS

We have reviewed the subject documents and find that they are in compliance with Condition No. 8 of Existing Use (EU) Permit No. 2002/EU-30.

Should you have any questions, please contact Lin Wong of our staff at 523-4485.

Sincerely yours,

  
for ERIC G. CRISPIN, AIA  
Director of Planning  
and Permitting

EGC:cs

doc239154

**EXHIBIT "M"**