

**CONDOMINIUM PUBLIC REPORT**

Prepared & Issued by: Developer WB KUKIO RESORTS, LLC, a Delaware limited liability company  
 Address P.O. Box 5439, Kailua-Kona, Hawaii 96745  
 Project Name (\*): **KIKAUA POINT COTTAGES**  
 Address: Mile Marker 87, Queen Kaahumanu Highway, Kailua-Kona, Hawaii 96740

Registration No. 5175 Effective date: October 28, 2003  
 Expiration date: November 28, 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. A Final Public Report will be issued by the developer when complete information is filed.
- CONTINGENT FINAL:**  
(green) The developer has legally created a condominium and has filed information with the Commission for this report which EXPIRES NINE (9) MONTHS after the above effective date. Contingent Final public reports may not be extended or renewed  
 No prior reports have been issued.  
 This report supersedes all prior public reports.
- Final:**  
(white) The developer has legally created a condominium and has filed complete information with the Commission.  
 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       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. (Contingent Final Public Report covered certain units but expired prior to issuance of this report)
- Changes made are as follows:

<p><b>SPECIAL ATTENTION SHOULD BE GIVEN TO THE SUMMARY OF RIGHTS RESERVED TO THE DEVELOPER (EXHIBIT "B")</b></p>
--

SPECIAL ATTENTION

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

This public report does not constitute approval of the Project by the Real Estate Commission, or any other 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 REFERRED TO IN THIS PUBLIC REPORT FOR FURTHER INFORMATION.

## TABLE OF CONTENTS

Page	1
Preparation of this Report	1
Expiration Date of Reports	1
Type of Report	1
Disclosure Abstract	2
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Operation of the Condominium Project	4
I. PERSONS CONNECTED WITH THE PROJECT	5
Developer	
Attorney for Developer	
General Contractor	
Real Estate Broker	
Escrow Company	
Condominium Managing Agent	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	6
B. Condominium Map (File Plan)	6
C. Bylaws	6
D. House Rules	7
E. Changes to Condominium Documents	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	8
B. Underlying Land	9
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	13
E. Encumbrances Against Title	14
F. Construction Warranties	15
G. Status of Construction	16
H. Project Phases	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements	17
B. Estimate of Initial Maintenance Fees	17
C. Utility Charges for Apartments	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission	18
B. Buyer's Right to Cancel Sales Contract	18
C. Additional Information Not Covered Above	20
D. Signature of Developer	21
EXHIBIT A: Phasing of the Project	
EXHIBIT B: Rights Reserved by Developer	
EXHIBIT C: Common Elements and Limited Common Elements	
EXHIBIT D: Encumbrances Against Title	
EXHIBIT E: Estimate of Initial Maintenance Fees and Maintenance Fee Disbursements	
EXHIBIT F: Summary of Sales Contract	
EXHIBIT G: Summary of Escrow Agreement	
EXHIBIT H: Public Offering Statement	
EXHIBIT I: Property Report	

## **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: WB Kukio Resorts, LLC Phone: (808) 325-1000  
Name\* (Business)  
P.O. Box 5439  
Kailua-Kona, Hawaii 96745  
Business Address

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):

Westbrook United Land Investments, L.P., managing member  
G & K Development LLC, member

Real Estate Broker\*: Kukio Real Estate Company, LLC Phone: (808) 325-1000  
Name (Business)  
P.O. Box 5349  
Kailua-Kona, Hawaii 96745  
Business Address

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

General Contractor\*: Pending Phone: \_\_\_\_\_  
Name (Business)  
Business Address

Condominium Managing Agent\*: Augustine Realty Phone: (808) 326-7170  
Name (Business)  
P.O. Box 2020  
Kailua-Kona, Hawaii 96745  
Business Address

Attorney for Developer: Cades Schutte LLP Phone: (808) 521-9200  
(Attention: Mark A. Hazlett) (Business)  
Name  
1000 Bishop Street  
1200 Cades Schutte Building  
Honolulu, Hawaii 96813-4216  
Business Address

\*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 checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	<u>2002-177018</u>
			Book	<u>                    </u> Page <u>                    </u>
<input type="checkbox"/>	Filed -	Land Court	Document No.	<u>                    </u>

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 the Kikaua Point Cottages dated October 10, 2002, filed in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-183245.

Second Amendment to Declaration of Condominium Property Regime of the Kikaua Point Cottages dated June 11, 2003, filed in the Bureau of Conveyances of the State of Hawaii as Document No. 2003-121903 and 2003-121904.

Proposed Third Amendment to Declaration of Condominium Property Regime of the Kikaua Point Cottages filed with the Real Estate Commission and to be executed and recorded prior to filing of Final Public Report application.

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 checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances Condo Map No.	<u>3493</u>	
<input type="checkbox"/>	Filed -	Land Court Condo Map No.	<u>                    </u>	

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

Amended Condominium Map dated June 13, 2002, filed in the Bureau of Conveyances of the State of Hawaii.

Proposed Third Amendment to Declaration of Condominium Property Regime of the Kikaua Point Cottages filed with the Real Estate Commission and to be executed and recorded prior to filing of Final Public Report application further amending Condominium Map.

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 checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	<u>2002-177019</u>
			Book	<u>                    </u> Page <u>                    </u>
<input type="checkbox"/>	Filed -	Land Court	Document No.	<u>                    </u>

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

First Amendment to Bylaws of the Association of Apartment Owners of The Kikaua Point Cottages effective as of the date of recordation, August 21, 2003, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2003-175693.

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%*	75% _____
Bylaws	65%	65% _____
House Rules	---	<u>Board Vote - Majority</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:

See **Exhibit B**

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 of 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: Mile Marker 87, Queen Kaahumanu Highway  
North Kona, Hawaii Tax Map Key (TMK): (3) 7-2-19:22 (por.)

Address  TMK is expected to change because the land underlying the Project may be subdivided and portions thereof withdrawn.

---

Land Area: 4.834  square feet  acre(s) Zoning: V-2.0 (Resort/Hotel)

Fee Owner: WB Kukio Resorts, LLC  
Name

P.O. Box 5439  
Kailua-Kona, Hawaii 96745  
Address

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: 28 Floors Per Building: 1

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

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other Cement Plaster, Veneer Plaster, Tile and allied building materials

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Other (Resort)*	<u>10</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

5. Special Use Restrictions:

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

Owners and occupants of Apartments are permitted to keep two (2) dogs, cats, or other usual common household pets, or any combination thereof, within such Owner or

Pets: occupant's Apartment.

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

Other: Section F of the Project's Declaration provides that the Apartments may be occupied and used only as private dwellings by the respective Owners thereof, their tenants, families, domestic servants or caregivers, and social guests. Under no circumstances may any of the Apartments be used for timesharing, or the establishment of a time share plan, as such term is defined in Hawaii Revised Statutes, Chapter 514E.

There are no special use restrictions.

6. Interior (fill in the appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
C-31	1	**	1,852	297	lanai
C-32	1	**	1,852	297	lanai
C-33	1	**	1,852	297	lanai
C-34	1	**	1,852	297	lanai
C-35	1	**	3,007	594	lanai
C-36	1	**	2,175	297	lanai
C-37	1	**	2,741	509	lanai
C-38	1	**	2,240	297	lanai
C-39	1	**	1,852	297	lanai
C-40	1	**	2,948	326	lanai

Total Number of Apartments: 10\*\*\*

\*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 floor area may have been used.

\*\* Units will be sold without a pre-designated number of bedrooms, bathrooms or layouts. The developer has reserved the right to reconfigure the interior space of an Apartment at any time prior to the recordation of an Apartment Deed for such Apartment. Upon such reconfiguration, the Developer will amend the Condominium Map, Declaration, Bylaws and other Documents to the extent that the Developer deems necessary to effectuate such reconfiguration.

\*\*\* Please note that the Declaration and Condominium Map reflect all ten (10) Apartments which the Developer currently intends to develop in the Project. Pursuant to the Developer's reserved rights under Section N.7 of the Declaration, the Developer may elect to further develop the Project in phases by seeking further Public Reports (Contingent Final, Final and/or Supplementary Public Reports) covering this phase. Please see Exhibit A for further explanation. Please be advised that there is no guarantee that the other Apartments in this Project will be developed. See Sections N.7, N.8 and N.9 of the Declaration.

Boundaries of Each Apartment:

As set forth in Section B.2(b) of the Declaration, each Apartment consists of the improvements, fixtures and space located within the undecorated or unfinished surfaces of each cottage building's perimeter walls, floors and ceilings. Purchasers should review Declaration Section B.2(b) for a full description of what is and what is not included in each Apartment.

Permitted Alterations to Apartments:

No Owner of an Apartment may construct any additional building, structural alteration or addition to any building within his Apartment. Generally, internal alterations to Apartments are permitted only with the prior approval of the Project's Board of Directors. All purchasers should review the restrictions, requirements and conditions for Apartment alterations which are contained in Section M.2 of the Declaration and Section J.6 of the Bylaws.

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, Hawaii Revised Statutes; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement because of the Project's intended resort use and zoning.

7. Parking Stalls:

Total Parking Stalls: 16

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>0</u>	<u>7</u>	<u>0</u>	<u>6</u>	<u>0</u>	<u>0</u>	<u>13</u>
Guest	<u>0</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>3</u>
Unassigned	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Extra for Purchase	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Other: *	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Covered & Open:		<u>8</u>		<u>8</u>		<u>0</u>	<u>16</u>

\* Each apartment will have the exclusive use of at least 1 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:

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

There are no violations.                       Violations will not be cured.

Violations and costs 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):

Not applicable

11. Conformance to Present Zoning Code

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

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

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

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

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

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

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

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

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

described in **Exhibit C**

as follows:

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

There are no limited common elements in this project

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

described in **Exhibit C\***

\*Note: Land areas described as Cottage Yards 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 C**

as follows:

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

**Exhibit D** describes the encumbrances against the title contained in the title report dated August 26, 2003 and issued by First American Title Insurance Company.

Blanket Liens:

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Not Applicable	

**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: The Developer shall warrant to the purchaser of an Apartment that (i) the Apartment shall be constructed in strict compliance with the Cottage Specifications; (ii) the quality of the workmanship and construction of the Apartment shall be at least equivalent to that found in comparable luxury residential condominium projects built in Hawaii as of the date of the Sales Contract; and (iii) the purchaser's rights shall include all warranty rights under contract and law. Such warranty shall include, but shall not be limited to, any warranties that are for the benefit of the Developer under the Developer's contracts with the general contractor, subcontractors, consultants and suppliers for the Project, including any extended warranties that the Developer receives under such contracts. The warranty period for the Developer's warranty shall be one (1) year from the date of substantial completion (as such term is defined in the construction contract for the Apartments) of the Apartment, unless the item is covered by an extended warranty, in which event the warranty period of the extended warranty shall apply. The expiration of the warranty period for the Developer's warranty shall not affect in any way the purchaser's right to bring claims for defective construction, against the Developer or any other responsible parties, within the time periods set forth in Chapter 657, Hawaii Revised Statutes, or other applicable statute of limitations period.

Warranty, the Developer shall personally remedy such claims.

2. Appliances: In addition, the Developer shall provide a purchaser of an Apartment with a warranty equivalent to (i) any subcontractor's or materialmen's warranties that the contractor may have secured for the benefit of purchasers; and (ii) any manufacturer's or dealer's warranties covering the furnishings and appliances in the Apartment. The duration of the Developer's warranty contained in this subparagraph shall be co-extensive with the underlying warranties referenced in the preceding paragraph.

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

Site work and construction of the infrastructure for the Apartments is expected to commence no later than February 20, 2004. Construction of the Apartments will occur in increments depending upon sales activity and construction considerations. All apartments will be completed within two years after the date of receipt by the buyer of a Contingent Final Public Report, Final Public Report or Supplementary Public Report. It is possible that the Developer may initially secure a Contingent Final, a Final Public Report or Supplementary Public Report covering only later apartments in the Project or a first phase to be constructed. Note that these dates are estimates only and the actual dates of completion may vary.

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):

1. Under Section N.7 of the Declaration, the Developer has reserved the right, to develop the Project in two or more phases. The Apartments in the Project will be covered by one or more separate further Public Reports (Contingent Final, Final and/or Supplementary Public Report). There is no guarantee that all Apartments in this Project will be developed. See Sections N.7, N.8 and N.9 of the Declaration.
2. Under Section N.1 of the Declaration, the Developer has reserved the right, but is under no obligation, to merge other areas with the Project from time to time. The Developer currently does not have any plans to undertake any such merger.



## 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:

[n/a] 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 October 31, 2002.  
**Exhibit G** contains a summary of the pertinent provisions of the escrow agreement.

[ ] Other \_\_\_\_\_

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

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

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

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

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

This Public Report is a part of Registration No. 5175 filed with the Real Estate Commission on October 15, 2003.

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

YELLOW paper stock       WHITE paper stock       PINK paper stock       GREEN paper stock

**C. Additional Information Not Covered Above**

The Project is a part of a master-planned community known as Kukio (the "Planned Community"). The Planned Community is intended to be developed and sold in multiple phases. It is currently contemplated that, when fully completed, the Planned Community will encompass residential parcels, a private lodge with full hotel services, multifamily housing, recreational amenities including a private 18 hole golf course and 10 hole practice golf facility and the Kukio Golf and Beach Club. The Developer will also develop an approximately 7.5 acre coastline park, called Kikaua Point Park, adjacent to the Planned Community. The park will be used by purchasers in the Planned Community and by the public. The Developer, however, makes no guarantee or warranty that all of the currently planned lots, the golf course(s) and other recreational amenities will be developed.

The Developer is currently developing and selling subdivided lots in the Planned Community that are designated for single-family residential use and that are located adjacent to or in the general vicinity of the Project. The Developer has registered those lots with the Subdivision Registration Division of the State of Hawaii Department of Commerce and Consumer Affairs and with the U.S. Department of Housing and Urban Development's Office of Interstate Land Sales Registration. In connection with such registrations, the Developer has prepared and is providing to lot purchasers a Public Offering Statement and a Property Report, respectively, that contain extensive information regarding the Planned Community, its physical environment, and other items which may be of interest to Apartment purchasers. Accordingly, the Public Offering Statement and the Property Report, which are generally described in **Exhibit H** and **Exhibit I**, respectively, will be made available to prospective purchasers upon their request.

The purchase of a condominium unit in the Kikaua Point Cottages project does not confer upon the purchaser any rights to the subdivided lots, which are currently being sold independent of the condominium units, nor are condominium purchasers obligated to buy lots. Likewise, lot sales do not afford lot purchasers any rights to the condominium project. Sales are completely separate. However, **Exhibits H and I** provide an overview of the Kukio master-planned community that may be helpful to condominium purchasers.

The ten apartments in the Project will be constructed in several increments. As each increment nears completion, the Developer will issue a Contingent Final, Final or Supplementary Public Report identifying the apartments under construction or completed, and only those apartments covered by a Contingent Final, Final or Supplementary Public Report will be sold to purchasers under binding sales contracts. However, the Developer will continue to market all of the apartments described in this Preliminary Public Report, and Purchasers will be able to enter into non-binding contracts for apartments that have not yet been covered in a Contingent Final, Final or Supplementary Public Report. The reservation used by the Developer for such sales will become a binding sales contract upon the Buyer's receipt of a Contingent Final, Final or Supplementary Public Report covering the apartment and in accordance with the further terms of the reservation/sales contract.

The Developer declares subject to the penalties set forth in Section 514A-49(b) 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 Final Public Report).

- D. 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.

WB Kukio Resorts, LLC, a Delaware limited liability company

Printed Name of Developer

By Westbrook United Land Investments, L.P., Its Managing Member

By Westbrook United, L.L.C., Its General Partner

By:   
Duly Authorized Signatory\*

10/3/03  
Date

Greg C. McGowan, Vice President, Westbrook United, L.L.C.

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

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

## EXHIBIT A

### PHASING OF PROJECT

Pursuant to Section N.7 of the Declaration, the Developer has reserved the right to develop the Project in phases. The Developer is under no obligation to construct any Apartments in the Project unless such Apartments are covered under a Contingent Final or Final Condominium Public Report and the Developer may amend the description of any Apartment described in the Declaration at any time prior to obtaining a Contingent Final or Final Condominium Public Report covering such Apartment. As part of such development in phases:

- A) The Developer may file separate Contingent Final, Final or Supplementary Public Reports for any phase of the Project with the Real Estate Commission of the State of Hawaii.
  
- B) Each Apartment's share of the Common Expenses shall be calculated from time to time based on the number of Apartments which have been constructed. Each Apartment's share of the Common Expenses shall be calculated based on a fraction, the numerator of which shall be such Apartment's Common Interest set forth in Exhibit C to the Declaration and the denominator of which shall be the aggregate Common Interest set forth in Exhibit C to the Declaration of all Apartments for which a Certificate of Occupancy has been issued. As Certificates of Occupancy are issued for additional Apartments in the Project, the shares of Common Expenses for the foregoing Apartments will be adjusted to reflect the additional Apartments.
  
- C) In order to carry out the provisions of or exercise the rights, powers, or privileges reserved in Section N.7 of the Declaration, the Developer may file amendments to the Declaration, Bylaws and/or Condominium Map for the Project to describe any changes to the Apartments or Common Elements therein described at any time, notwithstanding the lease, sale or conveyance of any or all of the Apartments in the Project, and the Developer may execute, file and deliver any such amendment to the Declaration, Bylaws and/or the Condominium Map for the Project and to such Apartment Deeds as may have been issued, and any and all other instruments necessary or desirable.

## EXHIBIT B

### **Rights Reserved by Developer**

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

- A) As set forth in Section N.1 (Reservation of Right to Annex or Merge Additional Phases) of the Declaration, the Developer may exercise its reserved right to cause or effect a merger or mergers of the Project with any one or more other projects that are adjacent to or in the vicinity of the Project, and to execute and record one or more Certificates of Merger and all other instruments necessary or appropriate for the purpose of effecting such merger or mergers. A merger may occur with respect to any two or more projects at any time, including after all apartments have been developed and sold in each project, and a merger with respect to any project(s) shall not affect the right of the Developer to merge another project or projects at a later date or dates.
- B) As set forth in Section N.2 (Reservation of Power to Grant Easements) of the Declaration, the Developer may exercise its reserved right to grant from time to time within the Common Elements, including without limitation the roadways, parking areas, parking stalls, golf cart paths, and walkways in the Project, (a) easements and rights-of-way over, under, and across the Common Elements for pedestrian and vehicular access, parking, utilities, sanitary and storm sewers, drains, cable television and other utility services, (b) in its capacity as Declarant under the Master Declaration, easements as provided in Article X of the Master Declaration, and (c) the right to relocate, realign or cancel the same, provided that such easements, their use, relocation, realignment, or cancellation shall not materially impair or interfere with the use of any apartment.
- C) As set forth in Section N.4 (Required Amendments) of the Declaration, the Developer may exercise its reserved right make at any time prior to the recordation of an Apartment Deed for the last Apartment in the project, amendments to the Declaration, the Bylaws, or the Condominium Map that are required by law, by the Real Estate Commission, by a title insurance company, by a mortgage lender, or by any governmental agency (including the VA, HUD, FNMA and/or FHLMC), provided that such amendments shall not change the Common Interest appurtenant to an Apartment or substantially change the design, location or size of any Apartment for which an Apartment Deed has been recorded.
- D) As set forth in Section N.5 (Reconfiguration of Apartments) of the Declaration, the Developer may amend the Declaration, Bylaws and Condominium Map, at any time prior to the recordation of an Apartment Deed for such Apartment, to reconfigure the interior space of any of the Apartments as shown on the Condominium Map, to among other things, increase or decrease the interior square footage of an Apartment, or install, remove, alter, relocate or rearrange floors, interior walls, partitions, ceilings, and structures, exterior doors, fixtures, pipes, wiring, ducts, valves, conduits, controls, cables, and other equipment serving such Apartment, regardless of whether such equipment is located outside of such Apartment. In no event, however, shall such amendments affect the Common Interest appurtenant to any other Apartment.
- E) As set forth in Section N.6 (Amendment and Supplement of Master Declaration and Design Guidelines) of the Declaration, the Developer, as the Declarant under the Master Declaration, reserves the right to amend and/or supplement the Master Declaration and the Kukio Residential Design Guidelines in accordance with the provisions of the Master Declaration.
- F) As set forth in Section N.7 (Reserved Right to Construct the Project in Phases), the Developer reserves the right to construct the Project in two or more phases. For further explanation, please refer to Exhibit A of this Contingent Final Public Report.
- G) As set forth in Section N.8 (Reserved Right to Reduce the Total number of Apartments in the Project), the Developer reserves the right at any time prior to December 31, 2012, to reduce the total number of Apartments comprising the Project. As part of such reserved right the Developer may make adjustments to the Common Interest and amend the Declaration, Bylaws and Condominium Map in the exercise of its reserved rights under Section N.8.

- H) As set forth in Section N.9 (Developer's Option to Subdivide and Withdraw Areas) of the Declaration, the Developer shall have the right to amend the Declaration, Bylaws and Condominium Map in connection with the subdivision of the Land and withdrawal therefrom of all or a portion of the Project owned by the Developer and not covered under a Final Condominium Public Report.
- I) As set forth in Section O (Amendment of Declaration) of the Declaration, the Developer has reserved the right to amend the Declaration to file the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act.
- J) As set forth in Section O (Amendment of Declaration) of the Declaration, the Developer has reserved the right to amend the Declaration to assign or change the assignments of individual parking stalls to individual Apartments for which an Apartment Deed has not been recorded, which assignments or changes in assignments shall be accomplished by an amendment to the Declaration.

**EXHIBIT C**

**Common Elements, Limited Common Elements, and Common Interest**

The Common Elements of the Project include:

- A) The Land, in fee simple, and any and all easements and appurtenances thereto.
- B) The foundations, perimeter walls and roofs of the Apartments, (ii) the undecorated or unfinished surfaces of the perimeter walls of the Apartments, (iii) the undecorated or unfinished surface of the floors and ceilings surrounding each Apartment.
- C) All Cottage Yards, and all yards, grounds, planters, landscaping, ponds and refuse facilities.
- D) All roads, parking areas, driveways, and walkways.
- E) All ducts, pumps, valves, sewer lines, drain lines, electrical equipment, cables, wiring, chutes, pipes, shafts, wires, conduits or other utility or service lines which are utilized for or serve more than one Apartment and other central and appurtenant transmission facilities over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, sewer, refuse, telephone and radio and television signal distribution.
- F) The swimming pools located within each of the Cottage Yards.
- G) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

The Limited Common Elements of the Project include:

- A) Cottage Yards. Each Apartment has as a Limited Common Element the Cottage Yard surrounding the Apartment as shown on the Condominium Map, including the swimming pool and the golf cart parking area located therein.
- B) Parking. Each Apartment will have as a limited common element the parking stall(s) designated for such Apartment on Exhibit "C" to the Declaration.

The Common Interest for the Apartments in the Project set forth in the Declaration are as follows:

<u>Apartment No.</u>	<u>Common Interest (%)</u>
C-31	9.562%
C-32	9.562%
C-33	9.562%
C-34	10.450%
C-35	10.670%
C-36	10.415%
C-37	9.630%
C-38	11.005%
C-39	9.443%
C-40	9.701%

Notwithstanding the foregoing Common Interest percentages, pursuant to Section N.7 of the Declaration, each Apartment's share of the Common Expenses shall be calculated from time to time based on the number of Apartments which have been constructed. Please refer to Exhibit A for further explanation.

**EXHIBIT D**

**Encumbrances Against Title**

The following are the encumbrances against title to the Project that are contained in the title report dated August 26, 2003 and issued by First American Title Insurance Company:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Certificate and Consent dated February 18, 1987, recorded in the Bureau in Liber 20432, Page 223, and Addendum thereto dated September 3, 1993, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-152074.
3. Historic Trail, as shown on map prepared by Dennis I. Hirota, Licensed Professional Land Surveyor, Certificate No. 9141-S, dated August 15, 2000.
4. Easement E-36 (64 square feet) for electrical transformer and incidental purposes as shown on File Plan 2285.
5. Easement E-38 (64 square feet) for electrical transformer and incidental purposes as shown on File Plan 2285.
6. Easement U-11 (2,655 square feet) for electrical transformer and incidental purposes as shown on File Plan 2285.
7. Association Easement A-27-C (52,619 square feet) more particularly described in Cancellation and Designation of Easement dated June 11, 2003, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2003-121897.
8. Easement E-38-A (area 64 square feet) for electrical transformer and incidental purposes as shown on survey map prepared by Dennis I. Hirota, Licensed Professional Land Surveyor No. 9141-S, dated March 14, 2002.
9. Easement E-44 (area 64 square feet) for electrical transformer and incidental purposes as shown on survey map prepared by Dennis I. Hirota, Licensed Professional Land Surveyor No. 9141-S, dated March 14, 2002.
10. Kukio Declaration of Covenants, Conditions and Restrictions dated January 3, 2001, recorded in said Bureau as Document No. 2001-003824, as amended by instrument recorded and effective October 19, 2001, recorded in said Bureau as Document No. 2001-165127, as supplemented by instrument dated October 30, 2001, recorded in said Bureau as Document No. 2001-191392, as amended by instrument dated May 22, 2002, recorded in said Bureau as Document No. 2002-093547 and as amended by instrument dated November 26, 2002, recorded in said Bureau as Document No. 2002-212369.
11. Grant of Non-Exclusive Access Easement dated May 20, 2002, recorded in the Bureau as Document No. 2002-093549.
12. Grant of Easement dated May 22, 2002, in favor of Hawaii Electric Light Company, Inc., a Hawaii corporation, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-134816, affecting Easements "E-36", "E-38-A" and "E-44."
13. Grant of Non-Exclusive Access Easement dated March 25, 2002, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-053489, as amended by instrument dated June 11, 2003, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2003-121899.
14. Grant of Non-Exclusive Access Easement dated May 10, 2002, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-093550, as amended by instrument dated June 11, 2003, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2003-121901.

15. Declaration of Condominium Property Regime of the Kikaua Point Cottages, recorded October 4, 2002 in the Bureau as Document No. 2002-177018, as amended by instrument dated October 10, 2002, recorded in the Bureau as Document No. 2002-183245 and as amended by instrument dated June 11, 2003, recorded in the Bureau as Document No. 2003-121903 and 2003-121904.

16. Bylaws of the Association of Apartment Owners of the Kikaua Point Cottages, recorded October 4, 2002 in the Bureau as Document No. 2002-177019, as amended by instrument effective as of August 21, 2003, the date of recordation, as Document No. 2003-175693.

17. Real property taxes may be due and owing. Check with the County Tax Assessor for further information.

EXHIBIT E

KIKAUA POINT COTTAGES

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 Months</u>	= <u>Yearly Total</u>
Cottage No. C-31	\$ 3,187.30	\$ 38,247.62
Cottage No. C-32	\$ 3,187.30	\$ 38,247.62
Cottage No. C-33	\$ 3,187.30	\$ 38,247.62
Cottage No. C-34	\$ 3,483.30	\$ 41,799.58
Cottage No. C-35	\$ 3,556.63	\$ 42,679.57
Cottage No. C-36	\$ 3,471.63	\$ 41,659.58
Cottage No. C-37	\$ 3,209.97	\$ 38,519.61
Cottage No. C-38	\$ 3,668.30	\$ 44,019.56
Cottage No. C-39	\$ 3,147.64	\$ 37,771.62
Cottage No. C-40	\$ 3,233.63	\$ 38,803.61

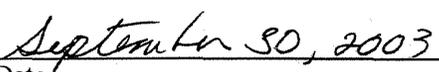
The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

Estimate of Maintenance Fee Disbursements:

	<u>Monthly x 12</u> months	= <u>Yearly Total</u>
<b><u>Utilities &amp; Services</u></b>		
Electricity – Common Elements Only	\$ 340.00	\$ 4,080.00
Water – Common Elements Only	2,000.00	24,000.00
Propane – Exterior & Interior	1,500.00	18,000.00
Pest Control – Exterior	1,250.00	15,000.00
<b><u>Maintenance, Repairs &amp; Supplies</u></b>		
Buildings	2,800.00	33,600.00
Grounds – Landscaping	10,000.00	120,000.00
Grounds – Parking Lot	411.00	4,932.00
<b><u>Management</u></b>		
Management Fee	1,337.00	16,044.00
Office Expense	375.00	4,500.00
Legal Expense	375.00	4,500.00
Reserve Study	125.00	1,500.00
Audit Fees	100.00	1,200.00
<b><u>Insurance</u></b>	10,500.00	126,000.00
<b><u>Reserves (*)</u></b>	2,220.00	26,640.00
<b>TOTAL</b>	<b>\$ 33,333.00</b>	<b>\$ 399,996.00</b>

I, Katherine J.H. Augustine, as agent for/and/or employed by Augustine Realty, the condominium managing agent/developer for the Kikaua Point Cottages, Phase II 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.

  
Signature

  
Date

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with Chapter 514-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to Chapter 514-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year, which begins after the association's first annual meeting.

## EXHIBIT F

### SUMMARY OF SALES CONTRACT

The specimen Reservation Agreement, Sales Contract and Receipt, filed with the Commission, provides for, among other things, a description of the Apartment to be sold, the purchase price, the closing costs, the time, manner and place of payment, the Purchaser's obligations regarding financing, the Seller's warranties and disclaimers regarding the Condominium Map and the Project, and the remedies of the Seller and of the Purchaser in the event of a default under the Sales Contract.

Among other provisions, the specimen Sales Contract provides:

1. That the Sales Contract is only a reservation agreement until (i) a true copy of the Contingent Final Public Report (or Final Public Report, if applicable) is delivered to the Purchaser, (ii) the Purchaser has an opportunity to read the report(s), (iii) a Deemed Acceptance of such report(s) by the Purchaser shall have occurred. If the Deemed Acceptance shall have occurred by Purchaser affirmatively accepting a Report by waiving his right to cancel on the Receipt Form, the execution of a Confirmation Agreement shall not be required and the Sales Contract will become binding in such event as a contract for the purchase and sale of the Apartment on the date of Deemed Acceptance. If the Deemed Acceptance shall have occurred in any manner other than by waiver of the right to cancel on the Receipt Form, the Sales Contract shall not become binding as a contract for the purchase and sale of the Apartment unless and until Purchaser shall have executed a Confirmation Agreement.

2. The Seller has entered into an Escrow Agreement with Title Guaranty Escrow Services, Inc. ("Escrow"), covering the deposit with the Escrow of all funds paid by the Purchaser under the Sales Contract and the disbursement of the funds by Escrow. In the event a purchase is cancelled, Escrow may charge a cancellation fee on account of escrow services performed not to exceed \$250.00.

3. The Sales Contract requires the Purchaser to pay the full Purchase Price by a series of payments prior to Closing, as follows: Purchaser shall make an initial payment by check when Purchaser signs the Sales Contract. For each month during construction of the Apartment, Seller will (i) obtain certification from Seller's architect, Hart Howerton of: (a) the amount of construction completed on the Apartment during the preceding month; and (b) the construction costs and architectural and engineering fees attributable to such construction, all determined in accordance with the requirements of Hawaii Revised Statutes; and (ii) invoice Purchaser for such amounts. Subject to the provisions of the Sales Contract, Purchaser shall pay the amount of each such invoice into Escrow no later than ten (10) days from the date that such invoice is sent to Purchaser. The remaining balance of the Total Purchase Price shall be paid into Escrow by Purchaser no later than ten (10) days after Seller notifies Purchaser of the completion of construction of the Apartment and a certificate of occupancy for the Apartment is issued.

4. The Sales Contract provides that the Purchaser's Deposits shall be placed into an interest bearing account with all of the interest to be credited to Purchaser at Closing. Purchaser will pay any processing fee required by Escrow and all costs of setting up, maintaining and closing the account.

5. The Sales Contract provides that closing costs and expenses shall be allocated as follows: Seller shall pay 60% of the premium for the Title Policy, the cost of drafting of conveyance documents, Seller's notary fees, conveyance tax, and 50% of escrow fees. Purchaser shall pay 40% of the premium for the Title Policy, and any additional costs relating to the issuance of extended coverage policy (including a lender's policy), the cost of drafting of any revisions or addenda to the purchase contract, the cost of obtaining Purchaser's consents, if any, Purchaser's notary fees, all recording fees, 50% of escrow fees, and any mortgage fees, and Hawaii General Excise Tax. The Sales Contract also provides that at Closing Purchaser shall pay (a) one (1) month's maintenance fee for the Project's Owner's Association, (b) a non-refundable, non-transferable start-up fee to the Project's Owner's Association in the amount equal to two (2) months' maintenance fee assessments, and (c) a \$1,000.00 start-up fee to the Kukio Community Association, the master community association for the Kukio master-planned community in which the Project is located. These start-up fees are one-time assessments at Closing and are not advance payments of common expenses or assessments, and shall be in addition to the normal monthly assessments.

6. The Sales Contract provides that Seller shall complete construction of the Project so as to permit normal occupancy of the Apartment covered the Contract within two (2) years from the date that the Sales Contract becomes a binding sales contract; provided, however, that such two (2) year period shall be extended for any period of

time during which Seller is actually and necessarily delayed in beginning or completing construction if such delay is caused by fire, earthquake, act of God, the elements, war or civil disturbances, litigation, strikes or other labor disturbances, or economic controls making it impossible to obtain the necessary labor or materials, or any other matter or condition beyond Seller's control.

7. The Sales Contract provides that the description of the improvements constituting an Apartment ("Cottage Specifications") shall be negotiated between Seller and Purchaser and will be attached as an exhibit to the Sales Contract.

8. The Sales Contract provides that it may not be assigned by Purchaser, in whole or in part, without the prior written consent of Seller which consent may be withheld by Seller in its sole and absolute discretion. Any assignment of the Sales Contract made without Seller's written consent is void and of no legal effect. Notwithstanding the foregoing, Purchaser may assign its rights under the Sales Contract to affiliated entities for estate planning purposes without the consent of Seller, provided that any such assignment shall not release Purchaser from its obligations under the Sales Contract.

9. The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Project, the sale of the Apartment or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Project which is raised or otherwise asserted after the Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract. The Sales Contract also provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract that is raised or otherwise asserted before Closing need not be submitted to arbitration, and Seller and Purchaser shall be free to pursue such dispute, as otherwise provided herein, in proceedings in a court of competent jurisdiction, provided that any judicial proceedings initiated shall be conducted in Honolulu, Hawaii.

The foregoing is only a summary of some of the key terms of the Sales Contract. It is incumbent upon a prospective Purchaser to read the full text of the Sales Contract with care.

## **EXHIBIT G**

### **SUMMARY OF ESCROW AGREEMENT**

A copy of the executed Escrow Agreement for the Project between Title Guaranty Escrow Services, Inc. ("Escrow"), and Developer has been filed with the Commission. The Escrow Agreement provides for the deposit of the funds of a purchaser of an Apartment (a "Purchaser") pursuant to the Sales Contract and also provides for the retention or disbursement of the funds. The Escrow Agreement specifically permits the disbursement of Purchasers' funds prior to closing, subject to certain conditions, to pay for certain Project costs, including costs of constructing the Project's buildings, fixtures and other improvements, Developer's architectural, engineering, finance, and legal fees, and other incidental expenses of the Project (excluding marketing expenses and brokerage fees relating to sales of Apartments).

The Escrow Agreement provides in part that any interest earned on money on deposit shall be paid to the parties in accordance with the terms of the Sales Contract. In the event that the Sales Contract or Hawaii Revised Statutes Chapter 514A entitle a Purchaser to a refund of Purchaser's Deposits held by Escrow, then Escrow, upon instruction from Developer, will refund Purchaser's deposits, less certain cancellation fees and costs (e.g., escrow cancellation fees, loan processing fees, cost of credit reports, etc.) as provided in the Sales Contract and Chapter 514A, Hawaii Revised Statutes, as amended.

By law the total amount of such cancellation fees shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) so long as the cancellation occurs prior to the time the Sales Contract becomes effective (following issuance of the Final Public Report). Under the Escrow Agreement no disbursement of funds can be made to the Developer until the Sales Contract becomes effective under the provisions of Chapter 514A, Hawaii Revised Statutes.

It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.

## EXHIBIT H

### **HAWAII PUBLIC OFFERING STATEMENT**

The Project is a part of a master-planned community known as Kukio (the "Planned Community"). The Planned Community is intended to be developed and sold in multiple phases. It is currently contemplated that, when fully completed, the Planned Community will encompass residential parcels, a private lodge with full hotel services, multifamily housing, recreational amenities including a private golf course and the Beach Club.

The Developer is currently developing and selling subdivided lots in the Planned Community that are designated for single-family residential use and that are located adjacent to or in the general vicinity of the Project. The Developer has registered those lots with the Subdivision Registration Division of the State of Hawaii Department of Commerce and Consumer Affairs. In connection with such registration, the Developer has prepared and is providing to lot purchasers a Public Offering Statement, that contains extensive information regarding the Planned Community, its physical environment, utility service, access, natural hazards which may affect the Planned Community, nearby services and facilities, and other items which may be of interest to Apartment purchasers.

The purchase of a condominium unit in the Kikaua Point Cottages project does not confer upon the purchaser any rights to the subdivided lots, which are currently being sold independent of the condominium units, nor are condominium purchasers obligated to buy lots. Likewise, lot sales do not afford lot purchasers any rights to the condominium project. Sales are completely separate. However, The Public Offering Statement provides an overview of the Kukio Planned Community that may be helpful to condominium purchasers. Accordingly, the Public Offering Statement will be made available to prospective purchasers upon their request.

## **EXHIBIT I**

### **PROPERTY REPORT**

The Project is a part of a master-planned community known as Kukio (the "Planned Community"). The Developer is currently developing and selling subdivided lots in the Planned Community that are designated for single-family residential use and that are located adjacent to or in the general vicinity of the Project.

The Developer has registered those lots with the United States Department of Housing and Urban Development's Office of Interstate Land Sales Registration. In connection with such registration, the Developer has prepared and is providing to lot purchasers a Property Report that contains extensive information regarding the Planned Community, including its roads, utilities, local services (fire and police protection, schools, hospitals, etc.), recreational facilities, physical environment and climate, and other items which may be of interest to Apartment purchasers.

The purchase of a condominium unit in the Kikaua Point Cottages project does not confer upon the purchaser any rights to the subdivided lots in the Planned Community, which are currently being sold independent of the condominium units, nor are condominium purchasers obligated to buy lots. Likewise, lot sales do not afford lot purchasers any rights to the condominium project. Sales are completely separate. However, the Property Report provides an overview of the Kukio Planned Community that may be helpful to condominium purchasers. Accordingly, the Property Report will be made available to prospective purchasers upon their request.

IMANAGEDB:492646.3