

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Andrew Fitts
Address P.O. Box 74, Kilauea, Hawaii 96754

Project Name(*): MOLOAA GATEWAY
Address: 6722 Koolau Road, Island of Kauai, Hawaii

Registration No. 5251

Effective date: December 13, 2010
Expiration date: January 13, 2012

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.
[X] SUPPLEMENTARY: (pink) This report updates information contained in the:
[X] Final Public Report dated: February 20, 2004

(*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 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.

Changes made are as follows:

1. This public report applies only to Units 1 and 3. The Developer intends to keep Unit 3. All other Units have been conveyed.
2. This public report has been updated to reflect current "Persons Connected with the Project."
3. The Declaration and Condominium Map have been amended to: (i) confirm that Unit 1 has the right to drill one or more water wells and distribute the water produced by those wells to others at the sole discretion of Unit 1, (ii) correct the Condominium Map to accurately reflect, as built, the limited common element roadway appurtenant to Units 1, 2, and 3, (iii) confirm that only Units 1, 2, and 3 and holders of applicable roadway access easements shall have access to said roadway, (iv) add, as a new Exhibit "B" to the Declaration, the respective metes and bounds descriptions of the limited common element exclusive area appurtenant to each of the Moloaa Gateway Condominium Property Regime units; and (v) amend the Condominium Map to accurately reflect, as built, the farm dwelling on Unit 2. For Units 1, 2, and 3 only, water and roadway issues are also governed by the Declaration of Covenants, Conditions, and Restrictions for Moloaa Valley Gardens Project. (See, Exhibit "J".) Units 4 and 5 are not subject to the Declaration of Covenants, Conditions, and Restrictions for Moloaa Valley Gardens Project.
4. Exhibit "A" attached to this public report has been revised to reflect the replacement of the Unit 2 shade shed with a farm dwelling.
5. Exhibit "F" (Encumbrances Against Title) attached to this public report has been updated to reflect a title report dated September 22, 2009, with an additional notation from the developer regarding the Second Amendment to the Declaration of Condominium Property Regime of Moloaa Gateway recorded on October 30, 2009.
6. Specifically and only for Units 1, 2, and 3, a new Exhibit "J" (with attachments) has been added disclosing information regarding the Moloaa Valley Gardens Project.
7. A new Exhibit "K" has been added to fully explain "rollback" real property taxes.

THE CONDOMINIUM SUPPLEMENTARY PUBLIC REPORT EXPIRED ON MARCH 20, 2005. PURSUANT TO SECTION 16-107-19, HAWAII ADMINISTRATIVE RULES, SALES CONTRACTS EXECUTED DURING THE PERIOD THAT THE PUBLIC REPORT WAS NOT IN EFFECT MAY BE RESCINDED AT THE OPTION OF THE PURCHASER AND ALL MONIES REFUNDED TO THE PURCHASER. THE PURCHASER'S RIGHT TO RESCIND UNDER THIS RULE SHALL BE VOID THIRTY (30) DAYS AFTER RECEIPT OF WRITTEN NOTIFICATION OF THESE RIGHTS FROM THE DEVELOPER OR HIS REAL ESTATE AGENT.

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.

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS OR OTHER STRUCTURES WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. **PRIOR TO PURCHASE, THE PROSPECTIVE PURCHASER IS ADVISED TO REVIEW THIS CONDOMINIUM PROJECT WITH THE RESPECTIVE KAUAI COUNTY PLANNING OFFICES TO RECEIVE THE MOST RECENT DIRECTIVES CONCERNING DEVELOPMENT, REPLACEMENT, EXPANSION, OR CONSTRUCTION OF ANY TYPE OF STRUCTURE FOR THIS CONDOMINIUM PROJECT IN THE FUTURE.**

There are presently one farm dwelling and four screen houses or agricultural sheds on the property each of which may be defined as an "apartment" or "unit" under the Condominium Property Act.

This project is within a State Land Use Agricultural District. Please see page 20 of this report for special requirements for residential dwellings within these districts.

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.

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

All owners and users of the individual condominium units (apartments are automatically members of the Association of Apartment Owners of the Project and are subject to the Bylaws of that Association, the Declaration of Condominium Property Regime, any House Rules and other existing or adopted Project Documents.

Units 1, 2, and 3, and not Units 4 and 5, are covered by the Declaration of Covenants, Conditions, and Restrictions for the Moloaa Valley Gardens Project. (See Exhibit "J".)

The land may be subject to rollback real property taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property taxes assessment. Please refer to the Director of Finance, County of Kauai, for further information. (See *also*, Exhibit "K".)

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: Andrew Fitts Phone: (808) 651-3402
Name* (Business)

Post Office Box 74, Kilauea, Kauai, Hawaii 96754
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):

N/A

Real Estate Broker*: RE/MAX Kauai, June Crane (License # 64256) Phone: (808) 826-9675
Name (Business)

P. O. Box 223609, Princeville, Hawaii 96722
Business Address

Escrow: First Hawaiian Title Corporation Phone: (808) 826-6812
Name (Business)

P.O. Box 507, Hanalei, Hawaii 96714
Business Address

General Contractor*: Paul Freese Phone: (808) 828-0910
Name (Business)

P.O. Box 74, Kilauea, Hawaii 96754
Business Address

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

Business Address

Attorney for Developer: Gordon M. Arakaki, Esq. Phone: (808) 535-8400
Name Clay Chapman Iwamura Pulice & Nervell (Business)

700 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
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:

Proposed
 Recorded - Bureau of Conveyances: Document No. 2003-174626
Book _____ Page _____
 Filed - Land Court: Document No. _____

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment to the Declaration of Condominium Property Regime of Moloaa Gateway, recorded on November 14, 2005 in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-231478; Second Amendment to the Declaration of Condominium Property Regime of Moloaa Gateway, recorded on October 30, 2009 in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-167004.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

Proposed
 Recorded - Bureau of Conveyances Condo Map No. 3629
 Filed - Land Court Condo Map No. _____

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment to the Declaration of Condominium Property Regime of Moloaa Gateway, recorded on November 14, 2005 in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-231478; Second Amendment to the Declaration of Condominium Property Regime of Moloaa Gateway, recorded on October 30, 2009 in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-167004.

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed
 Recorded - Bureau of Conveyances: Document No. 2003-174627
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The House Rules for this condominium are:

Proposed Adopted 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	67%**	<u>67%</u>
House Rules	---	<u>N/A</u>

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

** Pursuant to Hawaii Revised Statutes Section 514B-108(e) (effective July 1, 2006), a condominium association's bylaws may be amended by the vote or written consent of at least 67% of all unit owners.

2. **Developer:**

- No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.
- Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

III. THE CONDOMINIUM PROJECT

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

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

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

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

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

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

For Sub-leaseholds:

- Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is: Canceled Foreclosed
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

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

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

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

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

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

[] Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: Moloaa Road Tax Map Key (TMK): (4) 4-9-11-5
Island of Kauai, Hawaii

[] Address [X] TMK is expected to change because see below*

Land Area: 24.26 [] square feet [X] acre(s) Zoning: Agriculture

*Note: The County of Kauai has assigned the following Tax Map Keys to the Units:

- Unit 1: (4) 4-9-11-5 CPR No. 1
- Unit 2: (4) 4-9-11-5 CPR No. 2
- Unit 3: (4) 4-9-11-5 CPR No. 3
- Unit 4: (4) 4-9-11-5 CPR No. 4
- Unit 5: (4) 4-9-11-5 CPR No. 5

Fee Owner: Andrew Fitts, Betty Ciuchta (Trustee of the Betty J. Ciuchta Declaration of Trust dated December 3, 1993), Mark Boiser, Evelyn Boiser, Brian Lansing
 Name

Lessor: N/A
 Name
Business 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: 5 Floors Per Building: 1 – Units 1, 3, 4, 5
2 – Unit 2
 Exhibit _____ contains further explanations.
3. Principal Construction Material:
 Concrete Hollow Tile Wood (Unit 2)
 Other Steel posts with agricultural shade cloth wrapped around posts – shade cloth roof
4. Uses Permitted by Zoning

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Agricultural	<u>1</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Other	<u>4</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

5. Special Use Restrictions:

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

[] Pets: _____

[] Number of Occupants: _____

[X] Other: See page 20. For Units 1, 2, and 3 ONLY, see also Exhibit "J".

[] 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>
Units 1, 3, 4, 5 Shade Sheds	<u>4</u>	_____	_____	_____	<u>1.73</u>
Unit 2 Farm Dwelling	<u>1</u>	<u>3/3</u>	<u>1,936</u>	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 5

***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 "A"

Permitted Alterations to Apartments: See EXHIBIT "B"

Apartments Designated for Owner-Occupants Only: N/A

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

7. Parking Stalls:

Total Parking Stalls: 10

	<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>2</u>						<u>10</u>
Guest							
Unassigned							
Extra for Purchase							
Other: _____							
Total Covered & Open:	<u>10</u>		<u>0</u>		<u>0</u>		<u>10</u>

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

- Commercial parking garage permitted in condominium project.
- Exhibit: _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- 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 cost to cure are listed below. Violations will be cured by _____
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years): N/A

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

described in Exhibit "C" .

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit "D".

as follows:

*Note: 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 "E".

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 "F" describes the encumbrances against the title contained in the title report dated September 22, 2009 and issued by Old Republic Title & Escrow of Hawaii.

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 Prior to Conveyance</u>
---------------------	--

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: N/A

2. Appliances: N/A

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

Units 1, 3, 4, and 5, Shade Sheds, were completed in 2003. Unit 2, Farm Dwelling, was completed in June 2009.

H. **Project Phases:**

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

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

IV. CONDOMINIUM MANAGEMENT

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

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

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

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

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

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit "G" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. **Utility Charges for Apartments:**

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

- * None
- Electricity (_____ Common Elements only _____ Common Elements & Apartments)
- Gas (_____ Common Elements only _____ Common Elements & Apartments)
- Water
- Sewer
- Television Cable
- Other _____

* See, disclosures related to utilities on page 20.

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
- Specimen Sales Contract
Exhibit "H" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated _____
Exhibit "I" 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: Declaration of Covenants, Conditions, and Restrictions for Moloaa Valley Gardens Project

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. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov

Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs

Website to access rules: www.hawaii.gov/dcca/har

This Public Report is a part of Registration No. 5251 filed with the Real Estate Commission on December 5, 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**

The use of hazardous materials is restricted except as provided under Article XII of the Declaration and any hazardous material laws.

The construction on any dwelling or guest house is subject to the restrictions imposed by the County of Kauai. Pursuant to Article XXVI of the Declaration, one guest house may be constructed on this Project and the right to construct a guest house is assigned to the owner of Unit 4.

Restrictions on the use of the property are outlined in Article IX of the Declaration and Article VII of the Bylaws. Units of the Project must be occupied and used only for agricultural uses and, where permitted, as private residential dwellings or additional dwelling Units by the respective owners, their families, servants, personal guests, and tenants. In order to construct a dwelling the purchaser may be required to execute a Farm Dwelling Agreement as required by the County of Kauai and engage in agricultural activities as defined by the County of Kauai. These activities include the breeding, planting, nourishing and caring for, gathering, and processing of any animal or plant organism, including aquatic animals and plants, for the purpose of producing food or material for non-food products; the commercial growing of flowers or other ornamental plants; the commercial growing of forest products; and the commercial breeding and caring for domestic animals and pets. Unit owners shall not use their Units for any purpose that will injure the reputation of the Project or do anything that will (a) jeopardize the soundness of any building in the Project, (b) create a nuisance or unreasonably disturb the rights of other owners and occupants, or (c) reduce the value of the Project.

This is a condominium project and not a subdivision and Units purchased are not subdivided lots. A purchaser of an apartment will be conveyed an apartment unit together with and "undivided" interest in the common elements of the project. The entire parcel of land upon which the project is situated is designated as a common element. That portion of the common element which each purchaser has the exclusive right to use is called a limited common element or area, but is not a separate, legally subdivided lot.

A Buyer should understand that all development and use of the property shall be in compliance with County Codes and ordinances; that owners in this Project will not necessarily receive the same County services as owners of approved subdivided lots; that owners who develop their limited common element later than others may find that land use and zoning changes or insufficient utility capacities may limit, restrict, or prevent an expected land use.

The Buyer is not eligible to obtain water from the County of Kauai, Department of Water. A private water well is located on or adjacent to the property. A water system utilizing a 190 foot well with two water tanks having a combined volume of 6,500 gallons currently exists and serves Units 1, 2 and 3. Unit 4 (which currently has no improvements) and Unit 5 (which is not permitted to construct any type of dwelling or other structure for occupancy) must drill private water wells for use of those respective Units. [Note: Unit 5 has access to water from an adjacent lot that is currently also owned by the owner of Unit 5.]

Purchaser should be aware that there is no public sewer system available, which requires the project to comply with the requirements of chapter 11-62, HAR, "Wastewater Systems." The purchasers of each unit would bear the cost of designing and installing the wastewater system as part of their construction costs. The County of Kauai may allow the first unit applying for such a permit to use a cesspool; the second would require a septic system. Any prospective purchaser should verify requirements with the County of Kauai and seek design and installation estimates prior to proceeding.

Units 1, 2 and 3 have underground electricity, but do not have underground cable television. Units 4 and 5 can directly access electricity and cable TV from overhead wires along Koolau and/or Moloaa Road.

Reproduced below is a sample Farm Dwelling Agreement required by the County of Kauai to construct a residence on the property.

The land may be subject to rollback taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Director of Finance, County of Kauai for further information.

Residential Dwellings within State Land Use Agricultural District: Purchasers should be aware that the State Land Use Commission issued a Declaratory Ruling in December, 1994, regarding the construction of residential dwellings on properties located within the State Land Use Agricultural District. In response to said ruling, the Kauai County Planning Department is requiring applicants for building permits on such lands to acknowledge receipt of a "Farm Dwelling Notice". This Farm Dwelling Notice reads as follows:

FARM DWELLING NOTICE

To: Applicants for Building Permits on Land in State Land Use Agricultural District.

This is to inform you that chapter 205, Hawaii Revised Statutes, does not authorize residential dwellings as a permissible use in an agricultural use district, unless the dwelling is related to an agricultural activity or is a "farm dwelling".

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

Penalty for violation of Section 205-4.5, Hawaii Revised Statutes is a fine of not more than \$5,000.00. If any person who is cited for a violation of the law fails to remove the violation within six months of such citation and the violation continues such person is subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000.00 for any additional violation.

I acknowledge that I have read the above
and been given a copy

Signature of Applicant

Signature of Witness

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

 ANDREW FITTS
 Printed Name of Developer

By: Andrew Fitts 11/3/09
 Duly Authorized Signatory* Date

Andrew Fitts, Developer
 Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

*** 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 BUILDINGS

The Project consists of one farm dwelling and four (4) agricultural shade sheds. All sheds are principally steel post, wood and screen construction, with a roof and do not contain a basement. Each building (herein called "unit") is shown on the Condominium Map.

DESCRIPTION OF UNITS:

Units 1 through 5 are located as shown on the Condominium Map, as amended. A farm dwelling containing 1,936 square feet has been constructed on Unit 2. Units 1, 3, 4, and 5 each contain an area of 1.73 square feet.

The approximate net floor areas of each unit as set forth above is measured from the interior surface of the unit perimeter walls and includes all of the walls and partitions within its perimeter walls.

NOTE: THE FLOOR AREAS SHOWN ARE APPROXIMATE ONLY. THE DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF ANY PARTICULAR UNIT.

End of Exhibit "A"

EXHIBIT "B"

ALTERATIONS TO APARTMENTS

Section XVI. of the Declaration provides that:

1. Provided that the unit owner satisfies the applicable terms and conditions of the Project Documents and obtains all of the necessary governmental permits, each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of any other unit or any other persons or entity, to improve, renovate, remodel, make additions to, enlarge, remove, replace, alter or restore the improvements to or in his unit or portions thereof or upon or within the Yard Areas or other limited common elements or easements appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the owner of the altered unit shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the owner of the altered unit a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the owner of the altered unit shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable. If, despite the provisions of this paragraph, any governmental agency shall require some or all of the owners of units in the Project (other than the unit owner applying for the governmental permit) to sign the necessary governmental permit application or related documents, then all of the other unit owners shall be required to sign any such permit applications or related documents as may be necessary to allow a unit owner to obtain the governmental permit authorized by this paragraph.

2. Any alteration of the plans of a unit pursuant to this Section shall be subject to the following conditions:

(a) All such alterations shall conform with all applicable governmental regulations, laws and ordinances.

(b) Such alterations may decrease or increase the size of the affected unit, provided that no alteration shall extend or place the unit outside of the limits of the Yard Area appurtenant to such unit.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be made within eighteen months of the commencement thereof and in a manner that will not unreasonably interfere with the other unit owner's use of his unit or Yard Area.

(d) The owner of the altered unit shall have the right to utilize, relocate, realign and/or develop additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services. When necessary, the owner of the altered unit may add, delete, relocate, realign, designate and grant easements and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith. Provided, however, that no work done pursuant to this paragraph shall cause an unreasonable interruption in the service of such utilities to any other part of the Project, nor shall it unreasonably interfere with any other unit owner's use or enjoyment of his unit or Yard Area.

3. Each and every conveyance, lease and mortgage or other lien made or created or any unit and all common interests, limited common elements, and other appurtenances thereto shall be

subject to the provisions of this paragraph and any lease of a unit shall reserve to all unit owners the rights set forth in this paragraph.

***SPECIAL NOTATION:** When applying for zoning permits with the Planning Department of the County of Kauai, 75% of the owners of the project may be required to sign the permit forms. In such case, all unit owners shall be required to sign such permit applications and related documents as may be necessary for any unit owner to obtain such permits.

The issuance of an effective date for the Condominium Public Report should not be construed to mean that all governmental laws, ordinances and regulations have been complied with and all subsequent development and use shall comply with applicable governmental laws, ordinances and regulations. Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities/improvements normally associated with County approved subdivisions may not be necessarily included as part of this Project.

End of Exhibit "B"

EXHIBIT "C"

COMMON ELEMENTS

The common elements of the project shall specifically include, but are not limited to, the following:

1. The Property described in Exhibit" A" attached to the Declaration in fee simple.
2. All central and appurtenant installations for common services, including utilities.
3. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, use, maintenance or safety, or normally in common use.
4. All common driveways or common easements for access and/or utilities to the Property.

End of Exhibit "C"

EXHIBIT "D"

LIMITED COMMON ELEMENT

Certain units shall have appurtenant thereto easements for the exclusive use of certain limited common elements as follows:

1. Private Yards. The yard upon which each unit is located, as shown on the Condominium Map, is appurtenant to and for the exclusive use of such unit, as follows:

<u>UNIT NO.</u>	<u>Yard (approx. land area)</u>
1	9.13 acres
2	2.05 acres
3	4.39 acres
4	6.52 acres
5	1.88 acres

Unit Area 1: Yard Area 1 consists of the land area under and surrounding Unit 1, contains approximately 9.13 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 1 for the support of the building and other improvements comprising Unit 1, and for the purposes described in the Project Documents.

Unit Area 2: Yard Area 2 consists of the land area under and surrounding Unit 2, contains approximately 2.05 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 2 for the support of the building and other improvements comprising Unit 2 and for the purposes described in the Project Documents.

Unit Area 3: Yard Area 3 consists of the land area under and surrounding Unit 3, contains approximately 4.39 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 3 for the support of the building and other improvements comprising Unit 3 and for the purposes described in the Project Documents.

Unit Area 4: Yard Area 4 consists of the land area under and surrounding Unit 4, contains approximately 6.52 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 4 for the support of the building and other improvements comprising Unit 4 and for the purposes described in the Project Documents.

Unit Area 5: Yard Area 5 consists of the land area under and surrounding Unit 5, contains approximately 1.88 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 5 for the support of the building and other improvements comprising Unit 5 and for the purposes described in the Project Documents.

End of Exhibit "D"

EXHIBIT "E"

COMMON INTEREST

The undivided interest in the Common Elements appurtenant to each apartment shall be as described below. Each apartment shall have said fractional interest in all common profits and expenses of the Project and for all other purposes, including voting on all matter requiring action by the apartment owners.

<u>Apartment Number</u>	<u>Fractional Undivided Interest</u>
1	20%
2	20%
3	20%
4	20%
5	20%

End of Exhibit "E"

EXHIBIT "F"

ENCUMBRANCES AGAINST TITTLE

1. Any taxes that may be due and owing and tax liens that may exist, refer to Director of Finance, County of Kauai.
2. The lien of deferred or roll back taxes, if any.
3. Title to all minerals, and metallic mines reserved to the State of Hawaii.
4. The effect, if any, of the location of the Moloaa Stream traversing a portion of the land herein described.
5. The effect, if any, of a ditch traversing a portion of the land herein described as shown on Survey Map prepared by Dennis M. Esaki, Licensed Professional Land Surveyor Certificate No. 4383 dated December, 1999; as disclosed by PARTITION DEED recorded November 10, 2005 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2005-230974.
6. Portion of Easement "2", ten (10) feet wide, for right of way purposes, in favor of the owners of Lots J, K, and L as shown on Survey Map prepared by Dennis M. Esaki, Licensed Professional Land Surveyor Certificate No. 4383 dated December, 1999; as disclosed by PARTITION DEED recorded November 10, 2005 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2005-230974.
7. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : DECLARATION OF PROTECTIVE COVENANTS AND CO-TENANCY AGREEMENT
Dated : July 6, 2000
Recorded : in the Bureau of Conveyances, State of Hawaii, as Document No. 2000-905215
8. Agreement for : WAIVER AND RELEASE
On the terms, covenants and conditions contained therein,

Dated : February 12, 2003
Recorded : April 25, 2003 in the Bureau of Conveyances, State of Hawaii, as Document No. 2003-076734
9. Condominium Map No. 3629, filed in the Bureau of Conveyances, State of Hawaii.
10. Matters in an instrument that, among other things, contain or provide for easements, assessments, liens and their subordination; provisions relating to partition, restrictions on severability of component interest, covenants, conditions and restrictions, provision that no violation thereof and no enforcement of any lien provided for therein shall defeat or render invalid the lien of a mortgage or deed of trust made in good faith and for value, but omitting and covenants or restrictions if any, based upon race color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Entitled : Declaration of Condominium Property Regime

Recorded : August 20, 2003 in the Bureau of Conveyances, State of Hawaii, as Document No. 2003-174626

Said Declaration was amended by the following instruments:

DATED:	RECORDED:	DOCUMENT NO.:
November 18, 2005	November 14, 2005	2005-231478
*October 26, 2009	October 30, 2009	2009-167004

*Developer has added this notation to reflect the recently recorded SECOND AMENDMENT TO THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF MOLOAA GATEWAY.

Liens and charges for upkeep and maintenance as provided in the above mentioned Covenants, Conditions and Restrictions, if any, where no notice thereof appears on record.

For information regarding the current status of said liens and/ or assessments
Contact : ASSOCIATION OF APARTMENT OWNERS OF MOLOAA GATEWAY

11. By-Laws of the Association of Apartment Owners of Moloaa Gateway, recorded August 20, 2003 in the Bureau of Conveyances, State of Hawaii, as Document No. 2003-174627.

12. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT OF ROADWAY EASEMENT
Granted To : STATE OF HAWAII, COUNTY OF KAUAI
For : A non-exclusive perpetual roadway easement for pedestrian and vehicular ingress and egress over, upon, across, through and under Easements
Dated : February 14, 2006
Recorded : April 26, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-078058

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

Entitled : DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOLOAA VALLEY GARDEN PROJECT
Dated : May 30, 2006
Recorded : August 15, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-150167

14. BYLAWS OF THE MOLOAA VALLEY GARDENS HOMEOWNERS ASSOCIATION

Recorded : August 15, 2006 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2006-150168

15. Any unrecorded and subsisting leases.

16. Facts which would be disclosed by a comprehensive survey of the premises herein described.

17. Rights and claims of parties in possession.

End of Exhibit "F"

EXHIBIT "G"

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 = Yearly Total</u>	
Apartment 1	\$129.67	X 12 = \$1556.00
Apartment 2	\$129.67	X 12 = \$1556.00
Apartment 3	\$129.67	X 12 = \$1556.00
Apartment 4	\$129.67	X 12 = \$1556.00
Apartment 5	\$129.67	X 12 = \$1556.00

[Note: For Units 1, 2, and 3 **only**, and not Units 4 and 5, additional fees may be required because Units 1, 2, and 3 **only** are part of the Moloaa Valley Gardens Community Association. (Specifically and **only** for Units 1, 2, and 3, see Exhibit "J".) Disclosure of any such additional fees will be contained in the DROA for Units 1, 2, and 3 **only**.]

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:

	Monthly Fee x 12 months = Yearly Total		
Utilities and Services Air Conditioning Electricity <input type="checkbox"/> common elements only <input type="checkbox"/> common elements and apartments Elevator Gas <input type="checkbox"/> common elements only <input type="checkbox"/> common elements and apartments Refuse Collection Telephone Water and Sewer			
Maintenance, Repairs and Supplies Building Grounds-common driveway Management Management Fee Payroll and Payroll Taxes Office Expenses	\$100.00	x 12 =	\$1200
Insurance	\$100.00	x 12 =	\$1200
Reserves(*)			
Taxes and Government Assessments			\$5,380
Audit Fees			
Other			
TOTAL			\$7780

I, Andrew Fitts, as agent and developer for Moloaa Gateway 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

 11/3/09
 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 §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514A-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.

End of Exhibit "G"

EXHIBIT "H"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit Receipt and Sales Contract, including the terms and conditions attached thereto (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a purchaser will agree to buy a unit in the Project. Among other things, the Sales Contract states:

- (a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a unit.
- (b) That the purchaser acknowledges having received and read a public report (either preliminary or [mal] for the Project prior to signing the Sales Contract.
- (c) That the Developer makes no representations concerning rental of a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.
- (d) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (e) Requirements relating to the purchaser's financing of the purchase of a unit.
- (f) That the unit and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (g) That the Developer makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.
- (h) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (i) That the purchaser will not receive interest on deposits made under the Sales Contract.
- (j) If the buyer shall default:
 - (1) The contract may, at the seller's option, be terminated by written notice to the buyer; and
 - (2) Any sums paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of 20% of the total purchase price); and
 - (3) The seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the buyer shall be borne by the buyer.

Further, if the buyer shall default in making any payment when due, a late charge of one percent (1 %) per month shall accrue from the due date until such payment, together with such late charge, is paid, or at any time prior to the time that such payment and late charge is paid in full, the seller may, at its option, terminate this contract as provided in paragraphs (1) through (3) above.

- (k) If the seller should default the buyer may pursue any available remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the seller shall be borne by the seller.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the specimen sales Contract on file with the Real Estate Commission.

End of Exhibit "H"

EXHIBIT "I"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

(a) Escrow will let the purchaser know when payments are due.

(b) Escrow will arrange for the purchaser to sign all necessary documents.

(c) The purchaser is entitled to a refund if the purchaser or seller cancels the Sales Contract in accordance with its cancellation provisions, or if the purchaser terminates its reservation before the Sales Contract is binding. However, Escrow may deduct from the refund cancellation fees in accordance with the Sales Contract.

In the event of a default by the purchaser, the funds paid by the purchaser shall belong to the seller as liquidated damages (up to a maximum of twenty percent (20%) of the total purchase price).

The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

(d) The purchaser's funds that are placed in trust prior to closing may be used by the seller after (1) the purchaser has (i) been provided with a final public report and/or supplementary public report; (ii) executed a receipt and notice and has waived his or her right to cancel or thirty (30) days have elapsed since the purchaser has been provided with the final public report and/or supplementary public report and receipt and notice of right-to cancel; and (2) the seller notifies escrow in writing that since (i) and (ii) have happened, the Sales Contract is binding; and (3) the seller's attorney advises escrow that the Sales Contract is binding and the requirements of Hawaii Revised Statutes, Section 514A-39, -63 and -65 have been met.

(e) Escrow may not disburse any buyer's funds in the construction of the project until completion of the project and the expiration of the mechanic's and material man's lien period. Escrow may disburse prior to completion of the project and expiration of the applicable lien period if the Developers would furnish each purchaser an Owners Title Insurance with an endorsement against any future liens placed on the apartments or project as a result of the development, plus providing the Real Estate Commission a release of the General Contractor's lien rights.

End of Exhibit "I"

EXHIBIT "J"

SUMMARY OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOLOAA VALLEY GARDENS PROJECT AND BYLAWS OF THE MOLOAA VALLEY GARDENS HOMEOWNERS ASSOCIATION (Only Units 1, 2, and 3 are part of said Project/Master Association)

Units 1, 2, and 3 only are part of the Moloaa Valley Gardens Project ("MVG Project") and subject to its Declaration of Covenants, Conditions, and Restrictions ("DCCR"), attached to Exhibit "J" as Attachment "1", and Bylaws, attached to Exhibit "J" as Attachment "2".

The DCCR created the MVG Project and set forth requirements for all units and lots that are a part of the MVG Project. (Again, this affects only Units 1, 2, and 3.) Among other things, the DCCR state the following:

(a) The Developer (who currently holds 50% interest in the Master Association) has the right, but not the duty, to add additional properties to the Master Association.

(b) Each unit/lot owner in the Master Association has one vote. An owner's voting rights can be suspended if the owner defaults in observing any provision of the DCCR. The owner's voting rights are automatically restored upon curing of such default.

(c) The DCCR cover all personal or real property held or conveyed to the Master Association, including at creation of the subdivision, roadway easements, utility easements, and landscape easements between lot owners (the Common Areas). [Developer's Note: No condominium property from any of the condominiums that are a part of the MVG Project has been or will be conveyed to the Master Association. Roadway easements were executed between all appropriate parties for the interior roadway.]

(d) It might be possible under the DCCR to consolidate, subdivide, or rezone common areas, including roadways, utility systems, and water and irrigation systems. [Developer's Note: There are no common areas that are real property held by the Master Association. Even if there were such common area real property, the property could not be consolidated, subdivided, or rezoned without the approval of each and every party to the DCCR.]

(e) The Master Association is responsible for maintaining, planting, replanting common areas, including roadways, utility systems, and water and irrigation systems of the MVG Project.

(f) The DCCR cover "Designated Areas". These include shoulders of all roads, right of way areas, and curbs of all roads.

(g) The DCCR also cover "Improvements and Facilities" (DCCR Section 5.3): These include roadways, pavement, curbs, gutters, sidewalks, storm drain systems, drainage systems, trash enclosures, walls, signs, equipment, street lighting systems (other than those owned by a utility company), landscape irrigation systems (including the cost of electricity and water to operate the landscape irrigation systems) and other similar systems, facilities and improvements including the water transmission system. "Improvements and Facilities" do not include improvements or systems which have been dedicated to or are owned by the County of Kauai (or any department thereof) or a private or public utility such as Kauai Electric Company or a private cablevision company. [Developer's Note: DCCR Section 5.3 simply states that the Master Association must "maintain, repair, and replace ... Improvements and Facilities which are transferred to or owned by the Master Association." (Emphasis added.) At this point, there are only roadway easements held by the Master Association, and the Master Association maintains the interior roads and associated curbs and gutters.]

(h) The Developer may install a gate in the roadway leading to the Makai Valley portion of the subdivision. Only residents of this area and their guests have a right to enter this gate. Others may

contract with Owner of Unit 1 of the Molooa Gateway condominium to use the greenwaste dump located on Unit 1. Beneficiaries of the gate pay for it.

(i) There will be assessments for the cost of operating and maintaining the common areas, designated areas, and improvements and facilities of the MVG Project. These assessments are determined by the Board as it sees fit and are paid by unit and lot owners on a pro rata basis. (See, Article IV, Section 4 of the Master Association Bylaws, in conjunction with DCCR Section 4.2.)

(j) There may be supplemental or special assessments and user fees.

(k) Pursuant to DCCR Section 5.4, there is to be a water system/water company that will provide water for five lots (or more at the sole discretion of the Developer). Fees are to be determined by the Developer. [Developer's Note: Water from the system is to be provided for all of the ten lots and condominium units making up the MVG Project. The Developer has no intention or desire to add any more lots capable of receiving water from the water system.]

(l) The Developer may at some point convey the water company to a non-profit water company. All pipelines and transmission and storage facilities within the subdivision shall be deemed improvements and facilities paid for by the Master Association.

(m) To the extent obtainable at reasonable cost, insurance for the Master Association will be one of the expenses to be covered by its members.

(n) The Master Association Board of Directors has right to adopt rules and regulations for maintenance and operation of the common areas, designated areas, and improvements and facilities.

(o) The DCCR provides construction, design, and use of lots restrictions over and above those set out in condominium documents; e.g.:

(i) all units/lots must submit building plans to the Board; also for additions, changes, and alterations;

(ii) exempts the Developer and certain specified units/lots (as those units/lots were already built or substantially designed at the time of the execution of the DCCR);

(iii) provides requirements for materials, parking, grading, outside lighting, color schemes, landscaping, principal exterior materials;

(iv) provides requirements for location and method of certain utilities; and

(v) owners must meet certain architectural and design standards. [Developer's Note: Please review DCCR Section 6.2(b) – particularly the language describing how the natural conditions will be enhanced by various design solutions (with examples given). Then review the subsections of DCCR Section 6.2(b).]

(p) The DCCR govern use and maintenance of property.

(q) The DCCR control animals to be allowed on the units/lots.

(r) The DCCR prohibit certain uses, as follows:

(i) animal hospitals;

(ii) cemeteries;

- (iii) commercial recreation;
- (iv) construction and worker temporary housing;
- (v) mineral extraction and quarries;
- (vi) private and public utility facilities;
- (vii) transportation terminals;
- (viii) communications facilities;
- (ix) slaughter houses.

Please note that the prohibited uses above may be permitted if at least 75% of the owners of lots approve and all necessary government permits are secured.

(s) The Developer has reserved certain rights for as long as the Developer remains the owner of at least two units/lots, as follow:

(i) Easements, Licenses, Etc. To designate and grant to any person, and/or reserve unto the Developer, easements, licenses, permits and rights-of-way for public or private access and/or utility purposes, water distribution system, drainage, gas distribution systems, walkways, roadways, electrical, telephone and television cables and other or similar purposes and uses in, over, across, through and under any Common Areas, Designated Areas, and Improvements and Facilities as Developer deem appropriate or necessary. In connection with these specific reservations, each Owner shall be deemed, upon acceptance of a deed conveying any Lot or interest in any Lot, subject to the terms of DCCR Section 7.1(a), to irrevocably appoint Developer as such Owner's attorney-in-fact to execute such documents, to file maps designating such easements, to grant such easements and rights, and to do all things necessary or convenient in connection therewith without further notice to or action by such Owner, and upon Developer's request, each Owner promptly and for no additional consideration shall execute all documents which may be requested by Developer to designate or reconfirm such easements on any map and/or to grant or reconfirm such easements and rights.

(ii) Entry and Use. To enter on and use any Common Areas, Designated Areas, and Improvements and Facilities for the purpose of selling Lots, or of constructing any improvements or changes in or appurtenant to the Common Areas, Designated Areas, and Improvements and Facilities as it may deem appropriate or necessary, provided that work is performed in a good and workmanlike manner and free and clear of all liens.

(iii) Assignment of Rights. To assign and transfer, in whole or in part, all or any of its rights, privileges, powers, reservations, interests and obligations hereunder to any other person, including without limitation, to any successor designated by Declarant or the Master Association.

(iv) Approval of Amendments. To approve or disapprove any proposed amendment to the DCCR.

(v) Approval of Changes to Common Areas, Etc. To approve or disapprove any change in use of the Common Areas, the Designated Areas, and the Improvements and Facilities, and further to approve or disapprove any and all improvements, alterations and other work performed to, in, on, over, under and across the Common Areas, the Designated Areas, and the Improvements and Facilities.

(vi) Transfer to Master Association of Common Areas, Etc. To transfer from time to time to the Master Association, by deed and/or other appropriate conveyance document,

ownership, possession, and the obligation to maintain, landscape, repair and replace Common Areas, Designated Areas, and Improvements and Facilities and other real and personal property and interests (including, without limitation, leases, easements, rights-of-way and licenses). This shall also include transfer of part or all of the Water Company and of the system and equipment providing pumping, storage and transmission of water to the Lots, as well as to other neighboring properties (i.e., the water system) and its organization and operation including the responsibility for its operation, maintenance; repair and replacement (provided, however, that nothing herein shall require Developer to make any such transfer). It is understood that at the time of creation of the Subdivision, Developer intends to maintain and control landscaping within easements along the Subdivision roadway for an indefinite period of time. Developer shall retain the right, but not the obligation, to transfer responsibility for maintenance and control of said landscaping to the Master Association. For the purposes of this paragraph, "maintenance and control" of landscaping shall include, without limitation, the authority to relocate, thin out, and sell plants.

(vii) Construction of Structures and Improvements related to Dharma Sanctuary. To construct, on any land owned by Developer, structures and improvements (including, but not limited to, churches and monasteries) related to the Dharma Sanctuary.

The "Dharma Sanctuary" is a 501(c)(3) non-profit foundation dedicated to helping build Tibetan stupas around the world. Since its inception in 2004, the foundation's activities have led to a total of twenty-five stupas being created, sixteen in North America and nine in France. The central focus of building stupas with carved marble blocks rather than conventional concrete techniques has been accomplished. The foundation looks forward to helping more communities realize their stupa building dreams, now made more accessible by being able to assemble stupas, rather than construct them. In 2009 the foundation completed its project at the Kauai Dharma Sanctuary, with five stupas commemorating the life work of Kyabje Kalu Rinpoche and his lama disciples in Hawaii.

(viii) Construction of Buildings, Improvements, Architectural Walls, and Other Structures. To construct, on any land owned by Developer, Buildings, Improvements, architectural walls, and other structures.

(t) The Master Association is to indemnify the Developer for all liabilities and all suits against the Master Association.

(u) The Master Association has the right to enter each member's property in the event of that owner's default, and perform necessary remedies at the owner's expense.

The Bylaws of the Moloaa Valley Gardens Homeowners Association ("Bylaws") contain standard provisions regarding Master Association membership, meetings, Board of Directors, Officers, etc. (Again, this affects only Units 1, 2, and 3.) Among other things, the Bylaws state the following:

(a) The purposes and objectives of the Master Association are for the administration, fiscal management and operation of the MVG Project in accordance with Chapter 421J, Hawaii Revised Statutes, and its successor statutes, and the DCCR.

(b) Each owner of a unit/lot in the MVG Project is automatically a member of the Master Association by virtue of said unit/lot ownership. At such time as said owner ceases to be the owner of a unit/lot, his, her or its membership in the Master Association shall also automatically terminate.

(c) An annual membership assessment shall be charged to and paid by all members, which shall represent each member's pro rata share of the costs of the Master Association in fulfilling its purposes, as set forth in the Master Association's annual budget as approved by the members at least annually.

(d) . An annual membership meeting shall be held within the County of Kauai within three months of the end of the Master Association's fiscal year, or such other date as shall be set each year by the Board of Directors.

(e) Special meetings of the membership may be called by or at the request of the president, two or more of the directors, or forty percent (40%) of all the members. The person or persons authorized to call special meetings of the membership may fix any place, within the County of Kauai, as the place for holding such special meeting, and shall fix the time of such meeting.

(f) Members holding fifty percent (50%) or more of the vote, represented in person or by proxy, shall constitute a quorum for the conduct of business at any meeting duly called.

(g) The affairs of the Association shall be managed by the Board of Directors, one of which must be a resident of the State of Hawaii. The Board consists of three members.

(h) At any meeting of the membership of the Master Association duly called, any one or more of the directors may be removed with or without cause by vote of two-thirds the members present and eligible to vote, and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created.

(i) The Board of Directors may authorize any officer or officers, agent or agents of the Master Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Master Association which authority may be general or may be restricted to any specific instance.

(j) These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted, by the affirmative vote of a majority of those members present at any meeting of the members duly called at which a quorum is present, provided that at least thirty days' written notice is given to each member and director of the intention to alter, amend or repeal and adopt new Bylaws at such meeting, which notice shall specify that portion of the Bylaws to be amended and the proposed amendment thereof.

The Master Association's DCCR and Bylaws contain various other important provisions relating to the purchase of Unit 1, 2, or 3 in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the attached DCCR and Bylaws.

End of Exhibit "J"

EXHIBIT "K"

EXPLANATION OF "ROLLBACK" REAL PROPERTY TAXES

To understand "rollback taxes" (aka the "Deferred Tax Mandate"), one must understand "Agricultural Use Assessed Valuation".

A. Agricultural Use Assessed Valuation

Agricultural lands are given a huge "in use" assessed valuation reduction. Besides helping to "protect and preserve" agricultural lands, this policy is meant to contribute to the *viability* of agricultural industries. It recognizes that most farmers can't afford to pay real property taxes based on the land's "highest and best use" and still remain viable as a business.

Example of "agricultural use" assessed valuation (hypothetical valuations): Land being used to grow sugar cane is assessed at \$800 per acre; that is its "agricultural use" assessed value. If the land was being used for truck farming, the "agricultural use" assessed value would be \$2,500 per acre. That same land, if vacant or fallow, would probably have a "highest and best use" assessed value of somewhere around \$30,000 to \$50,000 per acre. Taking the low end of the scale and assuming that the "highest and best use" value of the land was \$30,000 per acre, at \$9 per \$1,000 of assessed value, the property tax for the agricultural land if it was fallow would be \$270.00 per acre. However, if the land was being used to grow sugar cane, the "agricultural use" property tax would be \$7.20 per acre. Multiply that by, say, 10,000 acres of sugar cane land, and you have an actual "agricultural use" real property tax of \$72,000 versus a "highest and best use" real property tax for fallow agricultural land of \$2.7 million.

B. Rollback Taxes (aka the "Deferred Tax Mandate")

The "deferred tax" mandate applies to land designated agricultural by the State Land Use Commission and/or County. It was adopted to discourage owners from changing the "use" designation or from subdividing their property into smaller, what was thought of as "less agriculture-efficient" parcels. Owners initiating one of these actions are liable for a deferred, or "rollback" tax equal to the difference between the assessed values of the "highest and best use" and the "agricultural use" retroactive to the year that the "agricultural use" assessment was made, up to a maximum of 10 years. In addition, a 10% per year penalty is tacked on.

As one can see from the example given above, with the huge difference in the "highest and best use" tax and the "agricultural use" tax, the rollback tax can be quite a deterrent to changing the "use" designation of one's agricultural land or subdividing the land into smaller parcels.

Please refer to the Director of Finance, County of Kauai, for further information.

End of Exhibit "K"