

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer MAROE KEANAE SMITH, STEPHANI ANN SMITH, aka STEPHANIE ANN SMITH, SYE ARI VASQUEZ, JENNIFER SUE VASQUEZ
Address 55 Palulu Way, Haiku, Maui, Hawaii 96708

Project Name (\*): PALULU CONDOMINIUM
Address: 55 Palulu Way, Haiku, Maui, Hawaii 96708

Registration No. 5279 (Conversion) Effective date: May 6, 2004 Expiration date: June 6, 2005

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

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

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

(\* ) Exactly as named in the Declaration This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

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

Required and attached to this report as Exhibit "E"       Not Required - disclosures covered in this report.

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This is a **CONDOMINIUM PROJECT**, not a subdivision. It does not involve the sale of individual subdivided lots. The land area beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and not a legally subdivided lot.

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

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

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR THEIR 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: (see Page 5(a)) Phone: \_\_\_\_\_  
 Name\* \_\_\_\_\_ (Business)  
 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\*: Gerald P. Hokoana, dba Aikane Properties Phone: (808) 871-0635  
 Name \_\_\_\_\_ (Business)  
360 Papa Place, Suite 2 License No. RB-10847  
 Business Address \_\_\_\_\_  
Kahului, Maui, Hawaii 96732

Escrow Title Guaranty Escrow Services, Inc. Phone: (808) 244-7924  
 Name \_\_\_\_\_ (Business)  
35 South Market Street  
 Business Address \_\_\_\_\_  
Wailuku, Maui, Hawaii 96793

General Contractor\*: K. Smith Builders, Ltd. Phone: (808) 575-2319  
 Name \_\_\_\_\_ (Business)  
2540 Hanamalia Place License No. BC-20153  
 Business Address \_\_\_\_\_  
Haiku, Maui, Hawaii 96708

Condominium Managing Agent\*: (self-managed by the AOA0) Phone: \_\_\_\_\_  
 Name \_\_\_\_\_ (Business)  
 Business Address \_\_\_\_\_

Attorney for Developer: David M. Jorgensen, Esq. Phone: (808) 242-4555  
Ing, Horikawa & Jorgensen \_\_\_\_\_ (Business)  
 Name \_\_\_\_\_  
2145 Wells St., Ste. 204  
 Business Address \_\_\_\_\_  
Wailuku, Maui, Hawaii 96793-2222

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

Developers: **MAROE KEANAE SMITH**  
**STEPHANI ANN SMITH,**  
aka **STEPHANIE ANN SMITH**  
**55 Palulu Way**  
**Haiku, Hawaii 96708**

Phone: \_\_\_\_\_  
          (808) 870-1586  
          (Business)

**SYE ARI VASQUEZ**  
**JENNIFER SUE VASQUEZ**  
**55 Palulu Way**  
**Haiku, Hawaii 96708**

Phone: \_\_\_\_\_  
          (808) 575-2549  
          (Business)

**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>2003-182640</u>	
			Book _____	Page _____
<input type="checkbox"/>	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]:

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>3632</u>		
<input type="checkbox"/>	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]:

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>2003-182641</u>	
			Book _____	Page _____
<input type="checkbox"/>	Filed -	Land Court:	Document No. _____	

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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



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: 55 Palulu Way Tax Map Key (TMK): (2) 2-7-013-203 & 207  
Haiku, Maui, Hawaii 96708

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

Land Area: Parcel 203-2.000  square feet  acre(s) Zoning: Agricultural (A2)  
Parcel 207-0.125

Fee Owner: (see Page 10(a))  
 Name \_\_\_\_\_  
 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: 2 Floors Per Building: Unit A - 2 floors  
Unit B - 1 floor  
 Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other \_\_\_\_\_

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>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

Fee Owners: **MAROE KEANAE SMITH**  
**STEPHANI ANN SMITH, aka STEPHANIE ANN SMITH**  
**55 Palulu Way**  
**Haiku, Hawaii 96708**

**SYE ARI VASQUEZ**  
**JENNIFER SUE VASQUEZ**  
**55 Palulu Way**  
**Haiku, Hawaii 96708**



7. Parking Stalls:

Total Parking Stalls:	<u>4</u>			
	<u>Regular</u>	<u>Compact</u>	<u>Tandem</u>	
	<u>Covered</u>	<u>Covered</u>	<u>Open</u>	TOTAL
Assigned (for each unit)	<u>2</u>	_____	_____	<u>4</u>
Guest	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____
Other: _____	_____	_____	_____	_____
Total Covered & Open:	<u>4</u>	<u>0</u>	<u>0</u>	<u>4</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: Septic Tank Pumping

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 "B".

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 \_\_\_\_\_.

as follows: The land area, existing private driveways reserved for the exclusive use of the particular apartment as shown on the Condominium Map and mailbox assigned to that particular apartment, except that the existing private driveway for Unit B runs through and over a portion of the land area reserved for the exclusive use of Unit A.

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

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

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

as follows:

<u>Apartment</u>	<u>Percentage in Common Elements</u>
A	50%
B	50%

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 "C" describes the encumbrances against the title contained in the title report dated DEC 29 2003 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

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

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

Type of Lien	Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <u>Prior to Conveyance</u>
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See Exhibit "D" attached hereto and made a part hereof.

F. Construction Warranties:

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

1. Building and Other Improvements: None

2. Appliances: None

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

Apartment A was completed in September 2000.

Apartment B was completed in February 2002.

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 [ ] the Developer or Developer's affiliate
[X] self-managed by the Association of Apartment Owners [ ] Other: \_\_\_\_\_

- B. Estimate of Initial Maintenance Fees:

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

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

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

- C. Utility Charges for Apartments:

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

- [ ] None [ ] Electricity ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
[ ] Gas ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
[X] Water [ ] Sewer [ ] Television Cable
[ ] Other \_\_\_\_\_

## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit "G" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated July 31, 2003  
Exhibit "H" 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 Road Maintenance Agreement, dated December 18, 2003, Doc. No. 2003-283462

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. 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](http://www.capitol.hawaii.gov)  
 Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)  
 Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 5279 filed with the Real Estate Commission on January 12, 2004.

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**C. Additional Information Not Covered Above**


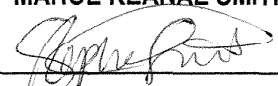
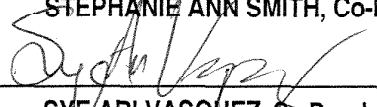
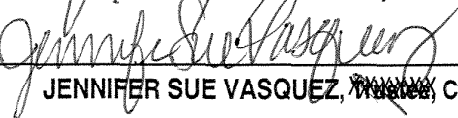
It is hereby disclosed as follows:

1. Access to the project from the closest government road (Hana Highway) is over and across Tax Map Key No. (2) 2-7-013-028 (Hohani), Tax Map Key No. (2) 2-7-013-027 (Palulu Way), and Tax Map Key No. (2) 2-7-013-207 as shown on the Condominium Map.
2. Mail boxes for the apartments are as shown on the Condominium Map.
3. Both apartments currently share one septic disposal system. The location of the system appurtenant to both apartments is not shown on the Condominium Map, however the developer believes it to be APPROXIMATELY 40 feet due North from the corner of Unit A. County and sewer service is not available. The owners of each apartment shall share equally in the cost of maintaining, operating and/or replacing the shared septic disposal system. No representations or warranties are made as to the quality, useful life, replacement cost, operating cost, or maintenance cost of the cesspool and appurtenances.
4. The County of Maui's Department of Water Supply has adopted a policy to require that each apartment in a condominium have its separate water meter. This condominium has only one meter, which is shared. This sharing may be in violation of these rules. Due to the current shortage of water in the Department's upcountry water system, it may not be possible to obtain a second meter for this property. WATER SERVICE IS NOW BEING PROVIDED TO BOTH APARTMENTS AND DEVELOPER KNOWS OF NO INSTANCE WHERE THE WATER DEPARTMENT HAS TERMINATED WATER SERVICE TO A CONDOMINIUM CONVERSION. ALSO, THE DEVELOPER HAS BEEN INFORMED THAT THE COUNTY OF MAUI IS CURRENTLY DISCUSSING A POSSIBLE AMENDMENT TO ADOPT A CHANGE OF RULES TO PERMIT SHARED USE BY TWO-UNIT CONDOMINIUMS (BUT THE OUTCOME IS UNCERTAIN). HOWEVER BUYER IS CAUTIONED THAT BUYER MAY BE REQUIRED TO OBTAIN A METER AS A CONDITION TO THE BUYER'S USE, EXPANSION OR CONSTRUCTION OF BUYER'S APARTMENT OR THE ISSUANCE OF A BUILDING PERMIT FOR ANY PURPOSE. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL OR CONTACT THE DEPARTMENT OF WATER SUPPLY FOR ADDITIONAL INFORMATION.
5. Under the current zoning ordinance, only one full size farm dwelling and one farm dwelling with a living area of 1,000 square feet or less are permitted. Apartment B was designated as the apartment which is subject to the 1,000 square feet limitation, and may not be expanded. THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL CONCERNING THE REQUIREMENTS OF A FARM DWELLING AND THE PERMITTED USES OF THE LAND AND DWELLING IN THE AGRICULTURAL ZONE.
6. 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 of Maui dedication and special real property tax assessment. Please refer to the Director of Finance, County of Maui, for further information.

- 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.

MAROE KEANAE SMITH, STEPHANI ANN SMITH, aka STEPHANIE ANN SMITH,  
SYE ARI VASQUEZ and JENNIFER SUE VASQUEZ

Printed Name of Developers

By: <u></u>	<u>9-12-03</u>
MAROE KEANAE SMITH, Co-Developer	Date
By: <u></u>	<u>9-12-03</u>
STEPHANI ANN SMITH, aka STEPHANIE ANN SMITH, Co-Developer	Date
By: <u></u>	<u>9-15-03</u>
SYE ARI VASQUEZ, Co-Developer	Date
By: <u></u>	<u>9-15-03</u>
JENNIFER SUE VASQUEZ, <del>Partner</del> Co-Developer	Date

*JV*

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

*\*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"**

Boundaries of Apartments

The respective Apartments shall be deemed to constitute the structures depicted on the Condominium Map, including the perimeter walls and the decorated or finished surfaces thereof; the roof and the finished exterior surfaces thereof; the perimeter doors, door frames, windows and window frames; the foundation and all supporting members.

**EXHIBIT "B"**

Common Elements

- a. The fee simple land described in Exhibit "F", which includes an undivided one-third (1/3) interest in Lot 29, a 24-foot wide access and utility roadway lot.
- b. Any common water meter, common waterline or any other utility installations serving more than one apartment.

## EXHIBIT "C"

### Encumbrances Against Title

1. Real property taxes which may be due and owing. Reference is made to the Tax Assessor's Office, County of Maui.
2. Covenants, conditions and reservations, contained in Deeds dated August 27, 1912, November 15, 1912 and December 20, 1912, recorded in said Bureau of Conveyances in Liber 372, Page 238, Liber 375, Page 304, and Liber 375, Page 330, respectively.
3. Covenants, conditions and reservations, contained in Agreement, dated June 30, 1989, recorded in said Bureau of Conveyances in Liber 23455, Page 315, by and between Noenoe M. Lindsey, wife of Vernon R. Lindsey, and the Department of Water Supply of the County of Maui, regarding the water system.
4. Covenants, conditions and reservations, contained in Agreement, dated September 28, 1989, recorded in said Bureau of Conveyances in Liber 23777, Page 88, by and between Noenoe M. Lindsey, wife of Vernon R. Lindsey, and the Department of Water Supply of the County of Maui, regarding a private water system.
5. Grant to Maui Electric Company, Limited and GTE Hawaiian Telephone Company Incorporated, a Hawaii corporation, dated November 3, 1989, recorded in said Bureau of Conveyances in Liber 23960, Page 179, granting a perpetual right and easement for utility purposes.
6. Covenants, conditions and reservations, contained in Subdivision Agreement (Agricultural Use), dated March 15, 1999, recorded in said Bureau of Conveyances as Document No. 99-047404, by and between Allan Fainbarg and Sara Fainbarg, as Trustees of the unrecorded Fainbarg Trust dated April 19, 1982, Arnold D. Feuerstein, as Trustee of the unrecorded Feuerstein Community Trust dated April 13, 1982, Ray International Corp., a Hawaii corporation, and Tachibana Kabushiki Kaisha, a Japan corporation, and the County of Maui, through its Department of Public Works and Waste Management.
7. Covenants, conditions and reservations, contained in the Declaration of Condominium Property Regime for "Palulu Family Condominium", dated July 25, 2003, recorded in the said Bureau of Conveyances as Document No. 2003-182640, and any amendments thereto. (Project covered by Condominium Map No. 3632.)
8. Covenants, conditions and reservations, contained in the By-Laws of the Association of Apartment Owners, dated July 25, 2003, recorded in the said Bureau of Conveyances as Document No. 2003-182641.
9. AS TO PARCEL SECOND: Rights of others who may own undivided interest(s), or have easement or access rights.
10. AS TO PARCEL SECOND: Covenants, conditions and reservations, contained in Road Maintenance Agreement, dated December 18, 2003, recorded in the said Bureau of Conveyances as Document No. 2003-283462.

**EXHIBIT "D"**

**Blanket Liens**

**Type of Liens:**

Mortgage in favor of Mortgage Electronic Registration Systems, Inc., solely as nominee for Alliance Bancorp, a California corporation, as Mortgagee, dated August 31, 2001, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2001-140404, for the amount of \$407,000.00.

**Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance:**

Present blanket liens will be released and satisfied prior to conveyance of first apartment to Buyer.

If said blanket liens be foreclosed prior to conveyance to Buyer, all of Buyer's deposits will be refunded immediately by escrow, less escrow cancellation fee.

**EXHIBIT "E"**

Palulu Condominium  
September 15, 2003

**DISCLOSURE ABSTRACT**

1. **NAME OF PROJECT:** PALULU CONDOMINIUM  
55 Palulu Way  
Haiku, Maui, Hawaii 96708
2. **DEVELOPER:** MAROE KEANAE SMITH  
STEPHANI ANN SMITH, aka  
STEPHANIE ANN SMITH  
SYE ARI VASQUEZ  
JENNIFER SUE VASQUEZ  
55 Palulu Way  
Haiku, Maui, Hawaii 96708
3. **MANAGING AGENT:** Self-managed by the Association of  
Owners of Palulu Condominium
4. **REAL ESTATE BROKER:** GERALD P. HOKOANA,  
dba Aikane Properties  
360 Papa Place, Ste. 2  
Kahului, Maui, Hawaii 96732
5. **USE OF APARTMENTS:** Residential dwelling and all  
other lawful purposes.

The two (2) apartments in the Project may be occupied and used only for residential dwelling purposes and all other lawful purposes permitted by the State of Hawaii statutes and the County of Maui ordinances. The apartments are subject to additional restrictions on their use as set forth in (i) the Declaration of Condominium Property Regime of Palulu Condominium, (ii) the By-Laws of the Association of Apartment Owners of Palulu Condominium, (iii) the Apartment Deed for the individual apartments, (iv) the Reservation, Deposit Receipt and Sales Contract for the individual apartments, and (v) the House Rules. Copies of the foregoing documents are on file with the Real Estate Commission of the State of Hawaii.

6. **WARRANTIES:**

THE DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT, COMMON ELEMENTS OR OTHER PRODUCTS, OR ANYTHING INSTALLED IN OR UPON THE PREMISES OR USED IN CONNECTION WITH THE PROJECT IN ANY MANNER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

As set forth in the Reservation, Deposit Receipt and Sales Contract, the Developer shall require from the general contractor for the project a written warranty with respect to any defects in the Buyer's apartment and the common elements due to faulty materials and/or workmanship which are discovered and reported within one (1) year from the "Date of Substantial Completion" as defined in the construction contract. The Developer makes no warranties itself; however, the execution, delivery and recordation of the Buyer's Apartment Deed shall constitute the assignment by the Developer to the Buyer of any and all warranties given the Developer by the general contractor for the project, and by any subcontractors or materialmen, and the benefit of such warranties shall accrue to the Buyer on closing without further instruments or documents. The Developer agrees to cooperate with the Buyer during the effective period of any such warranties in asserting any claims based on such warranties. The Developer does not adopt the contractor's or manufacturer's warranties, if any, and the Developer is not acting as co-warrantor, but is merely attempting to pass to the Buyer the benefit of such warranties, if any, and the Buyer expressly acknowledges and agrees to this. The Buyer acknowledges that the Developer has made no other warranties, express or implied, with respect to the property or any common element or anything installed therein.

7. **ESTIMATED MAINTENANCE FEES:**


See pages 4 and 5 of this exhibit.

The breakdown of estimated initial maintenance fees and maintenance fee disbursements for Palulu Condominium has been prepared by the Developer as of September 15, 2003, and is subject to revision based on actual cost for the items enumerated. The Developer can make no assurances regarding the estimated maintenance fees and maintenance fee disbursements. Variables such as inflation, uninsured casualty loss or damages, increased or decreased services from those contemplated by the Developer, apartment owner delinquencies and other factors may cause the actual maintenance fees to be greater or lesser than the estimated maintenance fees.

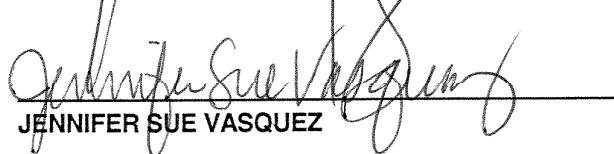
**NOTE:** THE DEVELOPER ADVISES THAT COSTS AND EXPENSES OF MAINTENANCE AND OPERATION OF A CONDOMINIUM PROJECT ARE DIFFICULT TO ESTIMATE INITIALLY AND EVEN IF THE MAINTENANCE FEES ARE ACCURATELY ESTIMATED, SUCH FEES WILL TEND TO INCREASE IN AN INFLATIONARY ECONOMY AND AS THE IMPROVEMENTS AGE. MAINTENANCE FEES CAN VARY DEPENDING ON SERVICES DESIRED BY APARTMENT OWNERS. THE BUYERS SHOULD CHECK THE ATTACHED MAINTENANCE FEE SCHEDULE TO SEE WHAT SERVICES ARE INCLUDED THEREIN. THE INITIAL ESTIMATES HAVE BEEN MADE WELL IN ADVANCE OF THE COMPLETION OF THE PROJECT AND MAY BE SUBJECT TO SUBSTANTIAL REVISION PRIOR TO OR UPON COMPLETION.

IN WITNESS WHEREOF, the undersigned has executed these presents the day and year first above written.

  
MAROE KEANAE SMITH

  
STEPHANI ANN SMITH, aka  
STEPHANIE ANN SMITH

  
SYE ARI VASQUEZ

  
JENNIFER SUE VASQUEZ

**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>	
<b>A</b>	\$ 35.00	\$420.00
<b>B</b>	<u>\$ 35.00</u>	<u>\$420.00</u>
	<b>\$ 70.00</b>	<b>\$840.00</b>

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

**Estimate of Maintenance Fee Disbursements:**

	<u>Monthly x 12 months =</u>	<u>Yearly Total</u>
Utilities and Services		
Air Conditioning	\$.00	\$.00
Electricity	.00	
[ ] common elements only	.00	.00
[ ] common elements and apartments		
Refuse Collection	.00	.00
Telephone	.00	.00
Water & Septic Tank	20.00	240.00
Maintenance, Repairs and Supplies		
Building	.00	.00
Grounds	.00	
Miscellaneous Costs	.00	.00
Insurance	25.00	300.00
Reserves(*)	25.00	300.00
Taxes and Government Assessments	.00	.00
Audit Fees	.00	.00
Other	.00	.00
<b>TOTAL</b>	<b>\$70.00</b>	<b>\$840.00</b>


I, **MAROE KEANAE SMITH** and **STEPHANI ANN SMITH**, also known as **STEPHANIE ANN SMITH**, **SYE ARI VASQUEZ** and **JENNIFER SUE VASQUEZ**, the developers for the Palulu 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.


9-12-03  
Date

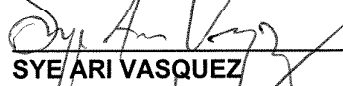
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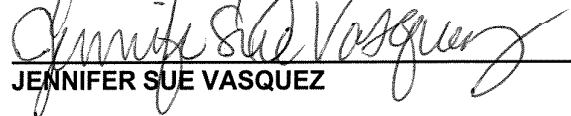
9-15-03  
Date

9-15-03  
Date

  
MAROE KEANAE SMITH

  
STEPHANI ANN SMITH, aka STEPHANIE ANN SMITH

  
SYE ARI VASQUEZ


  
JENNIFER SUE VASQUEZ


(\*) 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.

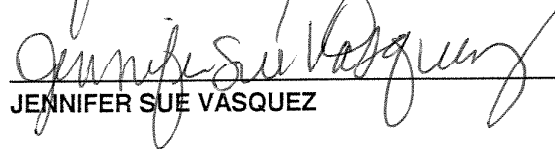
**RESERVES**

The Developer of PALULU CONDOMINIUM conducted a reserve study in 2003 in accordance with §514A-83.6, Hawaii Revised Statutes, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended, to estimate the remaining useful lives and the replacement costs of the common elements. The Developer has estimated the funding for such major repairs and replacements over the estimated useful lives of the common elements based on the study's estimates of current replacement costs. Actual expenditures, however, may vary from the estimated amounts and the variations may be material. Therefore, amounts designated for future repairs and replacements may not be adequate to meet future needs. If additional funds are needed, the Board of Directors of the Association of Owners does have the right, subject to owners' approval, to increase regular assessments or levy special assessments, or it may delay major repairs and replacements until funds are available. See Contractor's Estimate attached hereto.

  
\_\_\_\_\_  
MAROE KEANAE SMITH

  
\_\_\_\_\_  
STEPHANI ANN SMITH, aka  
STEPHANIE ANN SMITH

  
\_\_\_\_\_  
SYE ARI VASQUEZ

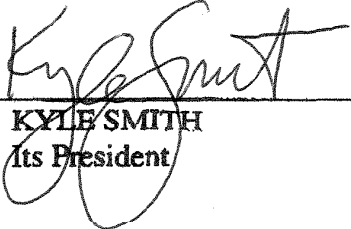
  
\_\_\_\_\_  
JENNIFER SUE VASQUEZ

**CONTRACTOR'S ESTIMATE**

Estimated cost to replace pavement over Roadway Lot 29 of the Haiku East Subdivision (aka Lindsey Subdivision), situate at Haiku, Maui, Hawaii, identified as Tax Map Key No. (2) 2-7-013-207 is \$ 18,000<sup>00</sup>. Therefore, Developers' cost to replace said pavement is \$ 6,000<sup>00</sup>, which is one-third (1/3) of the total cost.

Estimated life of pavement over Roadway Lot 29 is 10 to 20 years.

**K. SMITH BUILDERS, LTD.**

By   
KYLE SMITH  
Its President

**EXHIBIT "F"**

Land Description

PARCEL FIRST: All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 7821 to Jeannie Lawson and Remnants E-1 and E-3 of Hana Belt Road) situate, lying and being at Hamakualoa, District of Haiku, Island and County of Maui, State of Hawaii, being LOT 24 of the "HAIKU EAST SUBDIVISION (aka LINDSEY SUBDIVISION), a subdivision on file with the Department of Public Works and Waste Management (LUCA File No. 2.2106), same being a portion of Lot 33 of the Kuiaha-Kaupakulua Homesteads, and thus bounded and described as per survey of Edgardo V. Valera, Land Surveyor, with Valera Inc., to-wit:

Beginning at a ½ inch pipe at the southwesterly corner of this lot and the north side of Lot 29 (24 feet wide roadway lot) of this subdivision, the coordinates of said point of beginning being north 6,213.40 feet and west 5,191.32 feet referred to Government Survey Triangulation Station "KAPUAI" and running by azimuths measured clockwise from true South (meridian of said "KAPUAI"), thence,

- |    |             |        |   |
|----|-------------|--------|---|
| 1. | 167° 32'    | 204.94 | feet along Lot 18 of this subdivision to ½ inch pipe, thence  |
| 2. | 145° 40'    | 80.94  | feet along the same to a ½ inch pipe, thence  |
| 3. | 237° 03'    | 225.95 | feet along Lot 23 of this subdivision to a ½ inch pipe, thence  |
| 4. | 314° 02'    | 243.18 | feet along the same to a ½ inch pipe, thence  |
| 5. | 347° 54'    | 11.07  | feet along the same to a ½ inch pipe, thence  |
| 6. |             |        | Along the same on a curve to the right with a radius of 126.00 feet and a central angle of 83° 49', the chord azimuth and distance being: |
|    | 29° 48' 30" | 168.32 | feet to a ½ inch pipe, thence   |



## **EXHIBIT "G"**

### Summary of Sales Contract

1. The sales agreement contains the price and other terms and conditions under which a buyer will agree to buy a apartment in the project.
2. The sales agreement provides for the buyer to get a copy of certain legal documents that buyer should closely examine.
3. The sales agreement provides for severe penalties if buyer fails to comply with the terms and conditions of the agreement.
4. The buyer must complete the purchase of the apartment by a certain date and pay closing costs, in addition to the purchase price.
5. The buyer's money will be held in escrow under the terms of the Escrow Agreement for the project.
6. The sales agreement and the rights of the buyer under the sales agreement is subordinate to the lien of mortgages on the property.
7. The Developer is making no warranties or representations in connection with the sale of any of the apartments, except for its written limited warranty set forth in this report.

This is merely a summary of a few of the terms and conditions of the sales agreement, and the buyer should carefully read and review all the terms and conditions of the sales agreement before signing.

## **EXHIBIT "H"**

### **Summary of Escrow Agreement**

The Escrow Agreement sets up an arrangement under which the payments which a buyer makes under a sales agreement will be held by a neutral party ("Escrow"). Under the Escrow Agreement these things will or may happen:

- (a) Escrow will let buyers know when payments are due.
- (b) Escrow will arrange for buyers to sign all necessary documents.
- (c) The Escrow Agreement says under what conditions a refund will be made to a buyer.
- (d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the sales agreement.