

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer H.K. DEVELOPMENT, LLC
Address 94-1024 Waipio Uka St., #207, Waipahu, HI 96797

Project Name (\*): 2789 BOOTH ROAD CONDOMINIUM
Address: 2789 and 2789-A Booth Road, Honolulu, HI 96813

Registration No. 5318

Effective date: April 22, 2004

Expiration date: May 22, 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     Not Required - Disclosures covered in this report.  
See Exhibit A

**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. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

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

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

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

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

**I. PERSONS CONNECTED WITH THE PROJECT**

Developer: H.K. DEVELOPMENT, LLC Phone: (808) 676-5777  
Name\* (Business)  
94-1024 Waipio Uka St., Suite 207  
Business Address  
Waipahu, HI 96797

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):

ANGIE C. KIM, Member  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Real Estate Broker\*: EAST OAHU REALTY, INC. Phone: (808) 779-5810  
Name (Business)  
6600 KALANIANAOLE HWY.  
Business Address  
HONOLULU, HI 96825

Escrow First American Title Co. Phone: (808) 536-3866  
Name (Business)  
333 Queen St., Suite 700  
Business Address  
Honolulu, HI 96813

General Contractor\*: H.K. BUILDERS, INC. dba  
HALE KOA CONSTRUCTION Phone: \_\_\_\_\_  
Name (Business)  
94-1024 Waipio Uka St., Suite 207  
Business Address  
Waipahu, HI 96797

Condominium Managing Agent\*: Self-managed by  
ASSOCIATION OF CONDOMINIUM OWNERS Phone: \_\_\_\_\_  
Name (Business)  
 \_\_\_\_\_  
Business Address  
 \_\_\_\_\_

Attorney for Developer: RODWIN L. WONG Phone: (808) 394-5759  
Name (Business)  
P.O. Box 240831  
Business Address  
Honolulu, HI 96824

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

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

<input type="checkbox"/>	Proposed				
<input checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	<u>2004-048987</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>3722</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>2004-048988</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>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.

2. **Developer:**

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

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules: See Exhibit B, attached.



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: 2789 Booth Road Tax Map Key (TMK): (1) 2-2-027-009  
Honolulu, HI 96813

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

Land Area: 1.325  square feet  acre(s) Zoning: R-5

Fee Owner: H. K. DEVELOPMENT, LLC  
 Name  
94-1024 Waipio Uka St., Suite 207  
 Address  
Waipahu, HI 96797

Lessor: NONE  
 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: (2789) 2 floors  
 (2789-A) 3 floors
- 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 checked="" type="checkbox"/> Residential	<u>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

5. Special Use Restrictions:

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

Pets: See Exhibit C

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

Other: See Exhibit C

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      2789-A = 2  
 Stairways: 2789 = 1                      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf) (Identify)</u>
2789-A	<u>1</u>	<u>3/2.5</u>	<u>2,545</u>	<u>576</u> garage, laundry, porch
2789	<u>1</u>	<u>4/3</u>	<u>2,150</u>	<u>498</u> garage, storage, laundry, entry
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Number of Apartments: 2

\* 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 K

Permitted Alterations to Apartments: See Exhibit D

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement.



11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 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   F  .

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit F\*.

as follows:

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:

2789-A .....	50%
2789 .....	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 G describes the encumbrances against the title contained in the title report dated February 17, 2004 and issued by First American Title Company.

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.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	If Developer defaults prior to conveyance of a unit to a buyer, the buyer's interest could be terminated by the lender. In that event, Developer will repay to Buyer all sums paid by Buyer to Seller or Escrow, without interest, and less cancellation fees.

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 given by Developer.

2. Appliances: None given by Developer.

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

(2789-A Booth Road) estimated date of completion July 1, 2004

(2789 Booth Road) estimated date of completion May 1, 2004

H. Project Phases:

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

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

The fee owners have reserved various rights to add to or modify the Project. Many of these reserved rights are listed in Paragraph U of the Declaration. These rights include, without limitation:

(a) the right to reconfigure the Project or any unit with respect to which a deed has not been recorded;

(b) the right to modify all documents related to the Project including the Declaration, By-Laws and Condominium Map, to alter the project and units (and to modify said documents accordingly);

(c) the right to change the configurations of or to alter the number of rooms or to decrease or increase the size of, or to change the location of any unit; and

(d) the right to demolish and reconstruct or rebuild any unit in the Project provided that said demolition, reconstruction and rebuilding is done in compliance with all applicable codes and laws.

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  
 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 A 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 \_\_\_\_\_

NOTE: Developer has not conducted a reserve study in accordance with Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules as amended.

## 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 I contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated MAR - 1 2004  
Exhibit J contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's 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. 5318 filed with the Real Estate Commission on March 11, 2004.

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C. Additional Information Not Covered Above

NONE.



## EXHIBIT A

### DISCLOSURE ABSTRACT

1. Project: 2789 BOOTH ROAD CONDOMINIUM  
2789 and 2789-A Booth Road  
Honolulu, Hawaii 96813
2. Developer: H. K. DEVELOPMENT, LLC  
94-1024 Waipio Uka Street, Suite 207  
Waipahu, Hawaii 96797  
Telephone: (808) 676-5777
3. Real Estate Broker:  
EAST OAHU REALTY, INC.  
6600 Kalaniana'ole Highway  
Honolulu, Hawaii 96825  
Telephone: (808) 779-5810
4. Managing Agent: Self-managed by  
Association of Apartment Owners
5. Maintenance Fees: The maintenance and repair of each condominium unit and all utility charges and insurance premiums, are the sole responsibility of each owner thereof. There are no common services or expenses, which will require regular monthly assessments; provided, however, the cost and expense of maintaining, repairing and/or replacing the common element utility lines and possibly the Common Element for ingress and egress to the Project is a common expense of the Association that may require periodic assessments. Breakdown of annual maintenance fees and monthly estimated costs for each unit are more fully described in Exhibit "1" attached hereto (revised and updated every twelve (12) months and certified to have been based on generally accepted accounting principles).

Note: Developer discloses that no reserve study was done in accordance with Chapter 514A-83.6, HRS, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

6. Warranties: The Developer makes no warranties with respect to any building, fixtures or site conditions of any unit, or the common elements. No warranties are given as to appliances. Developer is disclaiming any warranties, either express or implied, including any implied warranty of habitability, with respect to the Project, the units or

their contents, and Developer will not be liable to Buyer or any other unit owners for any construction or other defects, including any latent or hidden defects in the Project, the units or anything contained therein. This means that neither Buyer nor any other unit owner will have the right to file any lawsuit for damages against Developer for any defects discovered by them.

7. Number of Apartments; Permitted Use. The Project contains two (2) apartments or units. The units are designated as 2789-A (also known as 2789-A Booth Road) and 2789 (also known as 2789 Booth Road). Both units are single family dwellings. There is no commercial development in the Project. Each unit will be used for residential purposes by the respective owners thereof, their tenants, families, domestic servants and social guests, and for other purposes permitted by the zoning ordinance for the City and County of Honolulu then in effect.

DATED: Honolulu, Hawaii, 4-20-04.

H. K. DEVELOPMENT, LLC

By   
ANGIE G. KIM  
Managing Member

EXHIBIT "1"

ESTIMATED OPERATING EXPENSES  
For Period May 1, 2004 to June 30, 2005  
As Prepared by Developer

Estimated Annual Expenses	
Ground Maintenance	
Water/Sewer	0
* Electricity:	0
** Fire/Liability Insurance:	0
Management Fee:	0
Miscellaneous:	0
TOTAL ANNUAL EXPENSES	0
Estimated Monthly Expenses	0
Estimated Monthly Maintenance Fee for Each Apartment	0

Note:

\* All utilities will be separately metered or otherwise charged, and the common elements will incur no separate utility charges.

\*\* Section 513A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners to purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. Developer anticipates that the Association may elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses.

The Developer certifies that the maintenance fees and costs are estimated by the Developer is based on generally accepted accounting principles.

DATED: Honolulu, Hawaii, 3-10-04.

H. K. DEVELOPMENT, LLC

By

  
ANGIE O. KIM  
Managing Member

## EXHIBIT B

### DEVELOPER'S RESERVED RIGHTS TO CHANGE CONDOMINIUM DOCUMENTS

Following is a brief summary of certain provisions in the Declaration, By-Laws and the Sales Contract, as indicated, wherein the Developer has reserved the right to change the condominium documents, including the Declaration, By-Laws and the Condominium Map:

#### I. DECLARATION

In paragraph S of the Declaration, the Developer reserves the right, at any time prior to the conveyance of an apartment to a buyer, to amend the Declaration and the By-Laws in any manner as the Developer may deem fit.

In paragraph U of the Declaration, the Developer reserves the right for itself and its agents, until such time as all the apartments in the Project are sold, without the consent, joinder or approval of the Association or any apartment purchaser, to:

A. Grant utility and access easements and quitclaim any easements in favor of the Project which are not required for the Project. Apartment owners agree, upon request, to join in and execute any and all documents designating, granting and quitclaiming any such easements.

B. Amend the Declaration, the Condominium Map and By-Laws consistent with any grants or reservations of the Developer under the Declaration.

C. Conduct sales of apartments at the Project, including, but not limited to, maintaining model apartments, operating a sales office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales.

D. Amend the Declaration, the By-Laws and the Condominium Map, without the approval, consent or joinder of any purchaser or owner of an apartment, to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Project or any of the apartments, by any institutional lender lending funds on the security of the Project or any of the apartments, by any purchaser, insurer or guarantor of loans, including, for example, the Federal National Mortgage

Association or Federal Home Loan Mortgage Corporation, to enable it to purchase, insure or guarantee a loan made on the security of the Project or any of the apartments, or by any governmental agency.

E. Reconfigure the Project or any unit with respect to which a deed has not been recorded.

F. To modify all documents related to the Project including the Declaration, the By-Laws and the Condominium Map, to alter the Project and the units (and to modify said documents accordingly). Without limiting the generality of the foregoing, Developer reserves the right to change the configurations of, or to alter the number of rooms of or to decrease or increase the size of, or to change the location of any unit in accordance with complete plans and specifications therefore prepared by a licensed architect or engineer, and to make other changes in the units and in the common elements, and to increase or decrease the purchase price of the unit or any other unit in the Project.

G. Developer also reserves the right, subject to all applicable codes, laws, rules, regulations or ordinances of any applicable governmental authority, to demolish and reconstruct or rebuild any unit in the Project.

## II. BY-LAWS

In Article II, Section 2 of the By-Laws, the Developer reserves the right to exercise the powers, vote and act for the Association and the Board on all matters until the first unit in the Project is conveyed to a buyer (except as to those rights reserved to the Developer in paragraph U of the Declaration, which rights are reserved until all of the activities described therein have been completed).

## III. SALES CONTRACT

The Developer, as Seller, reserves the right to modify all documents related to the Project, including the Declaration, By-Laws, Condominium Map, Condominium Deed, Disclosure Abstract and any exhibits to such documents.

THIS EXHIBIT CONTAINS ONLY A BRIEF SUMMARY OF THE PROVISIONS CONTAINED IN THE DECLARATION, THE BY-LAWS AND THE SALES CONTRACT RESPECTING THE DEVELOPER'S RESERVED RIGHTS. PROSPECTIVE OWNERS SHOULD READ AND UNDERSTAND ALL OF THE PROVISIONS RELATING TO THE DEVELOPER'S RESERVED RIGHTS CONTAINED IN THE AFORESAID DOCUMENTS.

## EXHIBIT C

### SPECIAL USE RESTRICTIONS

The following provisions in the Declaration and By-Laws, as indicated, contain restrictions on the use of the apartments and the common elements of the Project:

#### I. DECLARATION

Paragraph H.5 of the Declaration provides that each unit shall have appurtenant thereto a non-exclusive easement over the area designated on the Condominium Map as the common element for the purposes of ingress, egress and access to and from the Project. Pursuant to paragraph J of the Declaration, each unit shall be used as a single family dwelling.

Each unit shall be subject to the following use restrictions:

(a) Each unit shall be occupied and used only as a private single family dwelling by the owner(s) thereof, their tenants, families, domestic servants and social guests;

(b) No unit shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever;

(c) The units shall not be rented by the unit owners thereof for transient or hotel purposes, as defined in the Declaration;

(d) Neither said units nor any interest therein shall be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time-interval ownership" arrangement.

Other than the foregoing restrictions, the unit owners shall have the absolute right to lease the same, provided that such lease covers an entire apartment, is in writing and is made subject to the covenants and restrictions contained in the Declaration and in the By-Laws.

## II. BY-LAWS

Article VIII, Section 5 of the By-Laws lists a variety of restrictions affecting the use of the apartments and common elements, including, without limitation, restrictions as to the posting of advertisements, posters or other signs on or about the Project; noise; disposal of garbage; uses which may cause an increase in the ordinary premium rates or cancellation or invalidation of any insurance maintained by or for the Board; noxious or offensive activities; the storage of furniture, packages or other objects which could obstruct transit through the common elements; the construction or placement in the Project of any building or structure; the alteration of any common elements of the Project; installation or maintenance of any television or other antennas in the Project; and the keeping of pets.

THIS EXHIBIT CONTAINS ONLY A BRIEF SUMMARY OF CERTAIN USE PROVISIONS STATED IN THE DECLARATION AND BY-LAWS. PROSPECTIVE OWNERS SHOULD READ AND UNDERSTAND ALL OF THE USE RELATED PROVISIONS CONTAINED IN THE AFORESAID DOCUMENTS.

## EXHIBIT D

### PERMITTED ALTERATIONS TO APARTMENTS

The Declaration permits alterations to the apartments as follows:

#### I. DECLARATION

Paragraph Q of the Declaration provides as follows:

"ALTERATION OF UNITS. Notwithstanding anything to the contrary contained in this Declaration, each unit owner, with the required consent of any holder of any mortgage affecting the owners unit, shall have the right at his sole option at any time and from time to time without the consent of any other person to improve, renovate, remodel, make additions to, enlarge, remove, replace or restore the improvements to or in his unit or portions thereof or to make improvements upon the limited common element land area appurtenant to the unit (collectively, the foregoing are referred to "changes") subject to the following conditions:

1. All building plans for any such changes shall be prepared by a licensed architect or professional engineer, and such changes shall comply with all applicable City and County building, zoning and other applicable laws, rules, regulations and ordinances.
2. From and after such time as Developer has sold all units in the Project, no unit shall thereafter be changed so as to reduce the distance between improvements placed on each land area to less than the distance shown on the Condominium Map without the consent of the other owner, and no change to a unit shall be made if the effect of such change would be to exceed the unit's proportionate share of the allowable floor area or lot area coverage for the land on which the Project is located, pursuant to the then applicable zoning and building codes. The proportionate share for each unit shall be the same as its percentage interest in the common elements.
3. All changes shall be at the sole expense of the unit owner making such changes and shall be completed expeditiously and in a manner that will not unreasonably interfere with the other unit owners' use of their units or limited common element land areas.

4. During construction, the unit owner making such changes will obtain at its sole expense builder's all-risk insurance in an amount not less than the estimated cost of construction, and the Association shall be named as additional insured.

5. Promptly upon completion of such restoration, replacement or construction, the owner shall duly record or file of record an amendment to the Declaration, together with a complete set of floor plans of the unit as so altered, certified as built by a registered architect or professional engineer; provided, however, that notwithstanding any provision in this Declaration to the contrary, any alterations or additions within a unit may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the unit so altered. All present and future unit owners and their mortgagees, by accepting an interest in a unit in the Project, shall be deemed to have given each unit owner a power of attorney to execute such an amendment to this Declaration, so that each unit owner shall have a power of attorney from all other unit owners to execute such an amendment. This power of attorney shall be deemed coupled with each owner's interest in such owner's unit and shall be irrevocable.

6. Each conveyance, lease and mortgage or other lien made or created on any unit in the Project and all common interests and other appurtenances thereto shall be subject to the provisions of this section Q.

7. The owner of the changed unit shall have the right to utilize, relocate and realign existing and/or to develop additional, central and appurtenant installations for services to the unit affected by such change for electricity, sewer and other utilities and services and when applicable, to add, delete, relocate, realign, designate and grant easement and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith; provided that the same shall not cause any interruption in the service of such utilities to any other part of the Project.

8. This Declaration is being imposed on the Land before completion of the contemplated construction of residences on the limited common element land areas appurtenant to Unit A (2789-A Booth Road) and Unit B (2789 Booth Road). Consequently, the restrictions contained in this section Q shall be construed liberally, and each owner ("Non-Building Owner") shall cooperate with the other owner ("Building Owner") with respect to the Building Owner's

construction of a residence, including his obtaining building, utility and other governmental permits and his obtaining utility services into his limited common element land area which may be necessary or desirable for the residence to be built by Building Owner. Notwithstanding the foregoing, the Non-Building Owner shall not be required to incur any cost or expense hereunder without being reimbursed by the Building Owner. All costs incurred in the building of the residence shall be borne by the Building Owner, who shall indemnify and hold the Non-Building Owner harmless from any loss, liability, damage or expense incurred or suffered by the Non-Building Owner on account of such building by the Building Owner.

Developer does not give any assurances that the units can be expanded and Developer does not give any assurances that variances are obtainable from the City and County of Honolulu for any proposed improvements."

THIS EXHIBIT CONTAINS EXCERPTS OF THE PROVISIONS CONTAINED IN THE DECLARATION RESPECTING PERMITTED ALTERATIONS TO THE APARTMENTS. PROSPECTIVE OWNERS SHOULD READ AND UNDERSTAND ALL OF THE PROVISIONS RELATING TO PERMITTED ALTERATIONS CONTAINED IN THE AFORESAID DOCUMENT.

## **EXHIBIT E**

### **PARKING**

"2789-A Booth Road" and "2789 Booth Road" are single family dwellings, each with a two-car garage. There are no designated guest parking stalls on the Project.

## EXHIBIT F

### DESCRIPTION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

#### 1. COMMON ELEMENTS

Paragraph E of the Declaration describes the common elements as all of the Project (the "common elements"), which shall include all the limited common elements described in paragraph F herein below. Said common elements shall include, but shall not be limited to the following:

1. The fee simple land as described in Exhibit "A";

2. All central and appurtenant installations for services such as power, lights, telephone, hot and cold water lines, cable television lines, sewage disposal and other utilities which serve more than one unit (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units), and all tanks, pumps, motors, fans, ducts and other apparatus and installations existing for common use;

3. Rights appurtenant to the Land, including without limitation the rights of access over the common elements as shown on the Condominium Map;

4. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, and normally in common use and which are not part of any unit.

#### II. LIMITED COMMON ELEMENTS

Paragraph F of the Declaration describes the limited common elements as certain parts of the common elements which are set aside and reserved for the exclusive use of certain units, which units shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside for each unit are as follows:

1. The land area on which each unit is located, as shown and delineated on the Condominium Map, shall be a limited common element for the exclusive use of the unit to

which it is appurtenant; provided that each unit owner shall be responsible for and shall bear the expense of installing and maintaining all landscaping within such limited common element land area, and of repairing, restoring or reinstating any walkways, stairways, fences, walls, pavement, water lines, holding tanks and other improvements located within such designated limited common element land area; provided, further, that in the event of any sewer stoppage which affects any individual unit, the owner of such unit shall be responsible for and shall bear the expense of cleaning any sewer line which connects to any main sewer line running beneath the Project. The limited common element land area appurtenant to each unit is indicated on the Condominium Map and contains the following approximate number of square feet:

CONDOMINIUM UNIT:

2789-A Booth Road: 35,463 square feet

2789 Booth Road: 18,077 square feet

Notwithstanding any provision herein or in the By-Laws to the contrary all costs of every kind pertaining to each limited common element, including but not limited to, costs of landscaping, maintenance, repair, replacements, additions and improvements, shall be charged to and borne entirely by the owner(s) of the unit(s) to which it is appurtenant. Expenses which are attributable to more than one (1) mailbox or land area shall be allocated among the affected mailboxes or land areas on a per mailbox or land area basis. Any expense which cannot be separately identified or attributed to a limited common element shall be charged as a common expense.

Metes and bounds descriptions of limited common area 2789-A Booth Road, limited common area 2789 Booth Road and the remaining Common Element Area prepared by Robert K. Sing, Licensed Professional Land Surveyor, are attached.

2789 BOOTH ROAD CONDOMINIUM  
LIMITED COMMON ELEMENT  
2789 BOOTH ROAD

At Kewalo, Pauoa, Honolulu, Oahu, Hawaii

Being a portion of Royal Patent Grant 2594, Apana 2 to Maikai

Beginning at a pipe at the south corner of this parcel of land, being also the west corner of Unit A and on the northerly side of Grant 2587 to Haalelea, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,696.79 feet North and 5,004.51 feet East, thence running by azimuths measured clockwise from True South:-

1. 136° 14' 72.30 feet along Grant 2587 to Haalelea to a pipe;
2. 142° 45' 95.00 feet along Grant 2587 to Haalelea to a pipe;
3. 138° 27' 13.80 feet along Grant 2587 to Haalelea to a pipe;
4. 209° 13' 91.42 feet along the East side of Booth Road to a spike in road;
5. 304° 09' 142.64 feet along the Common Element, along the remainder of R. P. Grant 2594, Ap. 2 to Maikai to a pipe;
6. 18° 27' 145.35 feet along Unit A, along the remainder of R. P. Grant 2594, Ap. 2 to Maikai to the point of beginning and containing an AREA of 18,077 SQUARE FEET or 0.415 ACRE.



By: Robert K. Sing  
Robert K. Sing  
Licensed Professional Land Surveyor  
Certificate No. 4313

2789 BOOTH ROAD CONDOMINIUM  
LIMITED COMMON ELEMENT  
2789-A BOOTH ROAD

At Kewalo, Pauoa, Honolulu, Oahu, Hawaii

Being a portion of Royal Patent Grant 2594, Apana 2 to Maikai

Beginning at a pipe at the west corner of this parcel of land, being also the south corner of Unit B and on the northerly side of Grant 2587 to Haalelea, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,696.79 feet North and 5,004.51 feet East, thence running by azimuths measured clockwise from True South:-

1. 198° 27' 189.35 feet along Unit B, along the remainder of R. P. Grant 2594, Ap. 2 to Maikai;
2. 304° 23' 185.16 feet along the remainder of R. P. Grant 2594, Ap. 2 to Maikai to a spike in road;
3. 19° 49' 210.20 feet along the Government Land to a pipe;
4. 127° 59' 50.40 feet along Grant 2587 to Haalelea to a nail in rock;
5. 132° 00' 137.00 feet along Grant 2587 to the point of beginning and containing an AREA of 35,463 SQUARE FEET or 0.814 ACRE.



By: Robert K. Sing  
Robert K. Sing  
Licensed Professional Land Surveyor  
Certificate No. 4313

## COMMON ELEMENT AREA

At Kewalo, Pauoa, Honolulu, Oahu, Hawaii

Being a portion of Royal Patent Grant 2594, Apana 2 to Maikai

Beginning at a nail at the north corner of this Common Element, and also on the southerly side of Booth Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,953.59 feet North and 4,947.93 feet East, thence running by azimuths measured clockwise from True South:-

1. 318° 24' 112.37 feet along R. P. 1805, L. C. Aw. 6024, Ap. 1 to Koohonua to a pipe;
2. 226° 40' 30.00 feet along R. P. 1805, L. C. Aw. 6024, Ap. 1 to Koohonua to a pipe;
3. 304° 23' 24.33 feet along the remainder of R. P. Grant 2594, Ap. 2 to Maikai;
4. 18° 27' 44.00 feet along Unit A, along the remainder of R. P. Grant 2594, Ap. 2 to Maikai to a pipe;
5. 124° 09' 142.64 feet along Unit B, along the remainder of R. P. Grant 2594, Ap. 2 to Maikai to a spike;
6. Thence along the southerly side of Booth Road on a curve to the left with a radius of 160.00 feet, the chord azimuth and distance being: 201° 42' 35" 41.81 feet to the point of beginning and containing an AREA of 4,183 SQUARE FEET or 0.096 ACRE.



By: Robert K. Sing  
Robert K. Sing  
Licensed Professional Land Surveyor  
Certificate No. 4313

## EXHIBIT G

### ENCUMBRANCES AGAINST TITLE

1. Real property tax assessments for the fiscal year 2003-2004:

Tax Map Key No.: (1) 2-2-027-009-0000  
Class No.: 1  
First Installment: \$1,296.00, PAID  
Second Installment: \$1,296.00, PAYABLE

2. Title to all mineral and metallic mines reserved to the State of Hawaii.

3. A Grant of Easement for right and easement to install, repair, maintain and operate a pole and cable line or underground cable line, etc. for the transmission line system for cable television services and/or communications and control circuits, etc., over, across, through and under the land described above, in favor of Honolulu Television and Communications Corporation, doing Business as Oceanic Cablevision, recorded with the Bureau of Conveyances on September 1, 1987 in Book 21086 at Page 193.

4. Structure position discrepancies, as shown on or disclosed by the survey map dated May 29, 2003, prepared by George A. Sumida, Land Surveyor, with ParEn, Inc. dba Park Engineering, as set forth or disclosed by the Limited Warranty Deed recorded with the Bureau of Conveyances on September 16, 2003 as Document No. 2003-198349.

5. Encroachment(s), as shown on or disclosed by the survey map dated May 29, 2003, prepared by George A. Sumida, Land Surveyor, with ParEn, Inc. dba Park Engineering, as set forth or disclosed by the Limited Warranty Deed recorded with the Bureau of Conveyances on September 16, 2003 as Document No. 2003-198349.

6. A mortgage to secure an original principal indebtedness of \$1,015,000.00, and any other amounts or obligations secured thereby, dated September 5, 2003;

Mortgagor: H. K. Development, LLC, a Hawaii limited liability company, Angie C. Kim, wife of Harry Y. H. Kim, Jr., and H. K. Builders, Ins., a Hawaii corporation;

Guarantor: H. K. Development, Corporation, a Hawaii corporation

Mortgagee: Finance Factors, Limited, a Hawaii corporation;

recorded with the Bureau of Conveyances on September 16, 2003 as Document No. 2003-198350.

Note: Affects the land and other property.

7. The Assignments of Rents and other Income, as additional security for the payment of the indebtedness in the amount of \$1,015,000.00, which was recorded September 16, 2003 as Document No. 2003-198351.

Note: Affects the land and other property.

8. The Assignments of Sales Contracts and Deposits, as additional security for the payment of the indebtedness in the amount of \$1,015,000.00, which was recorded September 16, 2003 as Document No. 2003-198352.

Note: Affects the land and other property.

9. A financing statement

Debtor: H. K. Development, LLC, a Hawaii limited liability company, H. K. Builders, Inc., a Hawaii corporation, and Angie C. Kim, wife of Harry Y. H. Kim, Jr., and H. K. Development, Corporation, a Hawaii corporation

Secured Party: Finance Factors, Limited, a Hawaii corporation

Recorded September 16, 2003 as Regular System Document No. 2003-198353.

Note: Affects the land and other property.

## EXHIBIT I

### SUMMARY OF PERTINENT PROVISIONS OF SALES CONTRACT

Developer has filed a specimen Reservation and Sales Contract (the "Contract") with the Hawaii Real Estate Commission, which contains certain pertinent provisions summarized as follows:

Seller Has the Right to Change the Documents. Seller has the right to change the Declaration, By-Laws, Condominium Map, Rules and Regulations of the Association, if any, form of Apartment Deed, the Declaration of Merger, if any, and other documents. Buyer accepts and approves all changes which are required by law, the Real Estate Commission of the State of Hawaii, any title insurance company, any lender, any purchaser, insurer or guarantor of loans made on the security of the Project or any of the apartments, or any governmental agency made at any time before the conveyance of all of the apartments in the Project to persons other than Seller or Seller's mortgage lender. Buyer also accepts and approves all changes that Seller makes to any of the other apartments in the Project, including, without limitation, changes to the apartment types in the other apartments in the Project, made at any time before the conveyance of all of the apartments in the Project to persons other than Seller or Seller's mortgage lender. Buyer also accepts and approves all changes which Seller determines to be necessary, made at any time before the conveyance of the first apartment to any person other than Seller or Seller's mortgage lender, but only if the changes do not: (a) substantially change any of Seller's material obligations under this Agreement; (b) require a substantial change in the design, location or size of the Apartment or of the building in which the Apartment is located; (c) cause Buyer to lose Buyer's loan commitment; (d) increase Buyer's undivided percentage common interest in the common elements of the Project; or (e) reduce Seller's obligation for common expenses on any unsold apartments in the Project. Seller may also make other minor changes to the Apartment, the other apartments in the Project or the common elements, and the improvements constructed in the Project may vary from that shown in the plans and specifications.

Default by Buyer. If Buyer fails to make any payment when it is due or fails to keep any of Buyer's other promises or agreements contained in this Agreement, then Seller will have the right, at Seller's sole option and in addition to any other rights contained herein, to do any one or more of the following:

(a) Seller may cancel this Agreement by giving Buyer written notice of cancellation and Seller may keep all sums paid by Buyer under this Agreement as "liquidated damages" (i.e., the amount agreed to by Buyer and Seller as properly payable in settlement for breach of contract), and not as a penalty. Without limiting the generality of the foregoing, Buyer understands and acknowledges that if Buyer defaults under this Agreement after it has become a binding contract (as described in Article V, Section E.1 above), Seller may keep the Option Deposit in addition to all other sums paid by Buyer under this Agreement. If Seller cancels this Agreement, Buyer agrees that it will be difficult and expensive to determine the amount of loss or damage Seller will suffer. This is because of, among other things, Seller's commitments relating to the financing of the Project, the effect of default and cancellation of one sale on other apartment sales, and the nature of the real estate market in Hawaii. Buyer agrees that the sums paid by Buyer under this Agreement are a reasonable estimate of a fair payment to Seller for Seller's loss or damage resulting from Buyer's default.

(b) Seller may file a lawsuit for damages.

(c) Seller may file a lawsuit for "specific performance" (in other words, a lawsuit to make Buyer keep all of Buyer's promises and agreements). Seller may take advantage of any other rights which the law allows or which Seller may have under this Agreement.

Buyer also agrees to pay for all costs, including Seller's reasonable attorneys' fees (for both in-house and outside counsel) and the escrow cancellation fee, which are incurred because of Buyer's default.

Default by Seller. If Seller fails to keep any of Seller's promises or agreements contained in this Agreement, Buyer, if not in default hereunder, may file a lawsuit for specific performance to require Seller to go through with this Agreement or Buyer may exercise any other remedy to which Buyer is entitled to at law or in equity, including cancellation of this Agreement, if applicable. If Buyer cancels this Agreement because of Seller's default, Seller will repay to Buyer all sums paid by Buyer to Seller or Escrow under this Agreement, without interest.

Conditions Affecting the Property and Project. Buyer understands, acknowledges, covenants and agrees to the following:

(a) Utility Effects. The Property is or may be located adjacent to or in the vicinity of electric, water and other utilities and public roads and thoroughfares, including, without limitation, such things as electrical substations,

high-powered electrical transmission lines, water pump stations, water tanks, reservoirs, freeways and exit ramps which may result in nuisances, such as noise and dust, disturbances or hazards (collectively, the "Utility Effects") to persons and to property on or within the Property. In recent years, concerns have been raised about possible adverse health effects of electric and magnetic fields from power lines. Seller is not insuring or guaranteeing the health of Buyer or other occupants or users of the Property and disclaims liability for personal injury, illness or any other loss or damage caused by or arising from the Utility Effects including, without limitation, the presence or malfunction of any electrical distribution systems that may be located adjacent to, near, or over any part of the Property;

(b) Development and Drainage Effects. (i) The Project is or may be located adjacent to or in the vicinity of various construction activities, including, but not limited to, ongoing residential and related construction, proposed construction of future residential subdivisions, residential condominium projects and roads, commercial and office buildings, land development activities, one or more recreational centers and facilities, and other construction and development projects (collectively, the "Proposed Development"); (ii) construction of the Proposed Development will or may result in noise, dust, vibration, water drainage and other nuisances, disturbances or hazards to Buyer and to persons and property on or within the Property or the Project, and may limit Buyer access to the Project; (iii) when completed, traffic, lights, noise, dust, vibration and other nuisances, disturbances or hazards to persons and property on or within the Property or the Project may be generated from this Proposed Development; (iv) no representations or warranties are made by Seller, its employees or agents concerning plans, or the absence of plans, by Seller or others for future development of adjacent or nearby properties or lots, and any plans for the future development of adjacent and nearby properties by Seller are subject to change in the sole and absolute discretion of the Seller or its successors and assigns; (v) Seller makes no representations regarding the view from the Property or any view easements or rights, and the views from the Property are not guaranteed and may be altered, diminished, eliminated or blocked entirely by the future development of adjacent or surrounding properties (items (i) through (v) are hereinafter collectively called the "Development Effects");

(c) Waiver. Release and Indemnity. Buyer represents and warrants to Seller that Buyer, in Buyer's sole discretion, has determined that the benefits of owning and enjoying the Property outweigh the risks of the Utility Effects and Development Effects (collectively, the "Property

Conditions"). Buyer hereby irrevocably agrees to suffer and permit all actions and consequences incidental to the Utility Effects. Buyer hereby irrevocably agrees to suffer and permit all actions and consequences incidental to the Development Effects for a period of ten (10) years after the date of recordation of the Apartment Deed. Buyer hereby covenants and agrees to assume all risks of impairment of Buyer's use and enjoyment of the Property or the Project, loss of market value of the Property, and property damage or personal injury arising from the Property Conditions, and Buyer, for the Buyer and the Buyer's tenants, lessees, family, servants, guests, invitees, licensees, agents, employees, and those who use the Property through the Buyer for an extended period of time (collectively, the "Occupants"), hereby waives any claims or rights of action or suits against Seller, its successors and assigns, the City and County of Honolulu, the State of Hawaii, and any agency or subdivision of the foregoing, arising from such impairment of the Occupants' use and enjoyment of the Property or the Project, loss of market value of the Property, and property damage or personal Injury arising from one or more of the Property Conditions. Buyer shall indemnify, hold harmless and defend Seller, its successors and assigns, the City and County of Honolulu, the State of Hawaii, and any agency or subdivision of the foregoing, from any and all liability, claims, losses, damages, or expenses, including attorneys' fees, arising from such impairment of the Occupants' use and enjoyment of the Property or the Project, loss of market value of the Property, or property damage or personal injury to the property or person of the Occupants as a result of one or more of the Property Conditions. Buyer further covenants that Buyer will notify all Occupants and transferees of the Property of the risks of the Property Conditions.

Buyers' Obligation to Pay Closing Costs and Other Amounts. Buyer will pay for the following closing costs: all of the Escrow fee, all notary fees, all appraisal fees, all recording costs, all charges for Buyer's credit report, all costs of preparing any mortgages and promissory notes, and all title insurance costs. Buyer will also pay all mortgage costs. The fees for the appraisal, preparing any mortgage and promissory note and mortgage costs vary according to each lender.

THIS EXHIBIT CONTAINS ONLY SUMMARIES OF CERTAIN PERTINENT PROVISIONS CONTAINED IN THE SALES CONTRACT. PROSPECTIVE OWNERS SHOULD READ AND UNDERSTAND ALL OF THE PROVISIONS IN THEIR ENTIRETY CONTAINED IN THE SALES CONTRACT.

## EXHIBIT J

### SUMMARY OF ESCROW AGREEMENT

1. All funds paid to Escrow (First American Title Company) shall be deposited into interest-bearing accounts. All interest earned on such deposits belongs to Seller.
2. Purchaser shall be entitled to a refund of his deposit and Escrow shall pay said funds to said purchaser, without interest and less Escrow's cancellation fee, if purchaser shall in writing request refund of his deposit and any one of the following shall have occurred: (a) Escrow receives a written request from Seller to return to purchaser the funds of such purchaser then held hereunder by Escrow prior to Purchaser's receipt of the Final Public Report; or (b) if the Purchaser's funds were obtained prior to the issuance of a Final Public Report and Purchaser decides to cancel the reservation prior to receipt of the Final Public Report. Upon refund of said funds to purchaser as aforesaid, Escrow shall return to Seller purchaser's sales contract and any conveyance document theretofore delivered to Escrow, and thereupon neither the purchaser nor Seller shall be deemed obligated thereunder.
3. Purchaser shall also be entitled to a refund of Purchaser's deposit if (a) Seller has notified Escrow in writing of Seller's exercise of the option to cancel or rescind the Sales Contract pursuant to any right of cancellation or rescission available to Seller or (b) the Purchaser has exercised such Purchaser's right to rescind the Sales Contract pursuant to Section 514 A-63, Hawaii Revised Statutes, as amended.
4. If at any time Seller shall certify in writing to Escrow that a purchaser whose funds are being held hereunder by Escrow, has defaulted under the terms of his sales contract and that Seller has terminated said contract pursuant to the terms thereof, Escrow shall notify said purchaser by registered mail of such default and shall thereafter treat all funds of such purchaser paid under such contract, less Escrow's cancellation fee, as the escrowed funds of Seller and not of purchaser. Escrow's cancellation fee shall be commensurate with the amount of work performed in the subject transaction.
5. If any dispute or difference arises between Seller and purchaser, or if any conflicting demand shall be made upon Escrow, Escrow shall not be required to take any action thereon; but may await settlement of the controversy by final appropriate legal proceedings or otherwise as it may

require, or file a suit in interpleader in the Circuit Court of the First Circuit and may deposit with the Court any and all monies held.

6. Under the Escrow Agreement no disbursement of Purchaser's funds can be made to Seller until Escrow is notified by Sellers that the Real Estate Commission has issued a Final Public Report on the Project and that each Purchaser has been given a copy of said Final Public Report and receipted for the same; and Seller certifies in writing to Escrow that "the requirements of Sections 514A-39 and 514A-63" of the Hawaii Revised Statutes, as amended, have been met, as said quoted phrases are used in Section 514A-65 of the Hawaii Revised Statutes.

7. Under the Escrow Agreement no disbursement of purchasers' funds shall be made to Seller prior to the closing date until: (a) construction of all improvements in the project has been completed; and (b) the applicable mechanic's and materialmen's 45-day lien period has expired.

THIS IS ONLY A SUMMARY OF SELECTED PORTIONS OF THE ESCROW AGREEMENT. BUYERS ARE URGED TO CAREFULLY REVIEW ALL PROVISIONS OF THE ESCROW AGREEMENT PRIOR TO SIGNING A SALES CONTRACT.

## EXHIBIT K

### BOUNDARIES OF EACH APARTMENT

Each unit shall be deemed to include the entire structure comprising the apartment unit located on the limited common element land area appurtenant thereto. Each unit consists of:

(a) all footings, floors, foundations, perimeter walls and roofs of all improvements from time to time located in an building located on the limited common element land area appurtenant to the unit;

(b) all of the space, walls and other improvements located within such footings, floors, foundations, perimeter walls and roofs; and

(c) all exterior surfaces and finishes of such footings, floors, foundations, perimeter walls and roof.

The respective units shall not be deemed to include any pipes, wires, conduits or other utility lines running through such unit which are utilized for or serve more than one (1) unit, the same being deemed common elements as hereinafter provided.