

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer: RED AND YELLOW KAUAI, LLC

Address: 3-3359 Kuhio Highway, Lihue, Hawaii 96766

Project Name(*): 3362 UNAHE STREET CONDOMINIUM

Address: 3362 Unahe Street, Lihue, Hawaii 96766

Registration No. 5467

Effective date: October 28, 2004

Expiration date: November 28, 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, in 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.

FINAL:
(white)

The developer has legally created a condominium and has filed complete information with the Commission.

No prior reports have been issued.

This report supersedes all prior public reports.

This report must be read together with _____

SUPPLEMENTARY:
(pink)

This report updates information contained in the:

Preliminary Public Report dated: _____

Final Public Report dated: _____

Supplementary Public Report dated: _____

And Supersedes all prior public reports

Must be read together with _____

This report reactivates the _____

public report(s) which expired on _____

(*) Exactly as named in the Declaration

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

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0104

I. PERSONS CONNECTED WITH THE PROJECT

Developer: RED AND YELLOW KAUAI, LLC Phone: (808) 246-0334
 Name* (Business)
3-3359 Kuhio Highway
 Business Address
Lihue, Hawaii 96766

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):

Robert J. German, Trustee of the Robert J. German Self-Trusteed Trust, its Member
Jimmy F. Wray, Trustee of the Jimmy Wray Self-Trusteed Trust, its Member

Real Estate Broker*: Bob German, Inc. dba Phone: (808) 246-0334
Aloha Island Properties (Business)
 Name
3-3359 Kuhio Highway
 Business Address
Lihue, Hawaii 96766

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

General Contractor*: Fergus Macomber dba Phone: (808) 742-1300
Kokua Construction (Business)
 Name
Post Office Box 54
 Business Address
Lawai, Hawaii 96765

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

Attorney for Developer: Glen T. Hale Phone: 808-245-4100
Hale & Goldberg LLP (Business)
 Name
2970 Kele Street Suite 110
 Business Address
Lihue, Hawaii 96766-1803

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

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 attached hereto as Exhibit "I"

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 interests 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>75%</u>
House Rules	----	<u>75%</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:

Fee Owner: RED AND YELLOW KAUAI, LLC
 Name
3359 Kuhio Highway
 Address
Lihue, Hawaii 96766

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: three (3) Floors Per Building one (1)
 Exhibit _____ contains further explanations.

3. Principal Construction Material:
 Concrete Hollow Tile Wood
 Other _____

4. Permitted Uses by Zoning:

	No. of Apts.	<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: (Carport)	_____	<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

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 lawfully at one time but which does not now conform to present zoning requirements:

	Conforming	Non-Conforming	Illegal
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 Interests:

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

described in Exhibit E .

as follows:

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

Units 1 and 2 were completed in 2003.

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):

N/A

C. **Additional Information Not Covered Above:**

This is a condominium project, not a subdivision. Units purchased are not on subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report, especially Exhibit "I" to this report which is a summary of the recorded restrictive covenants for the subdivision within which this project is located. Among other things, the restrictive covenants govern land use, building type and materials, possession of animals, and cultivation of crops. You should also conduct your own investigations and ascertain the validity of information provided.

Residential improvements are located on Units 1 and 2 of the project. These can be replaced by or remodeled as allowed by law and project documents. The prospective purchaser shall have the right to undertake such work at purchaser's expense. The purchaser shall also, in such event, file the "as-built" certificate within thirty days of completion of the residence in conformance with Section 514A-12, Hawaii Revised Statutes, and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the residence. The County of Kauai Planning Department, in order to process the necessary permits for the construction of any other structure, requires authorization from at least 75% of the legal and equitable ownership of the entire project, consistent with the Declaration and the Bylaws ("condominium documents").

Except as limited specifically by the condominium documents and subdivision restrictive covenants, all uses permitted in the residential zone are permitted. Uses in one zone are not the same as in the other, and the prospective purchaser should consult the appropriate county agency for information on uses and construction in the respective zones.

A buyer should understand that all development and use of the property shall be in compliance with County codes and ordinances, that owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots, and that owners who develop their limited common element later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

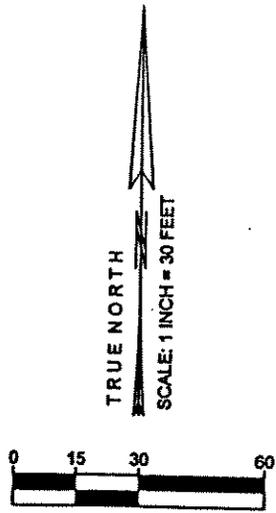
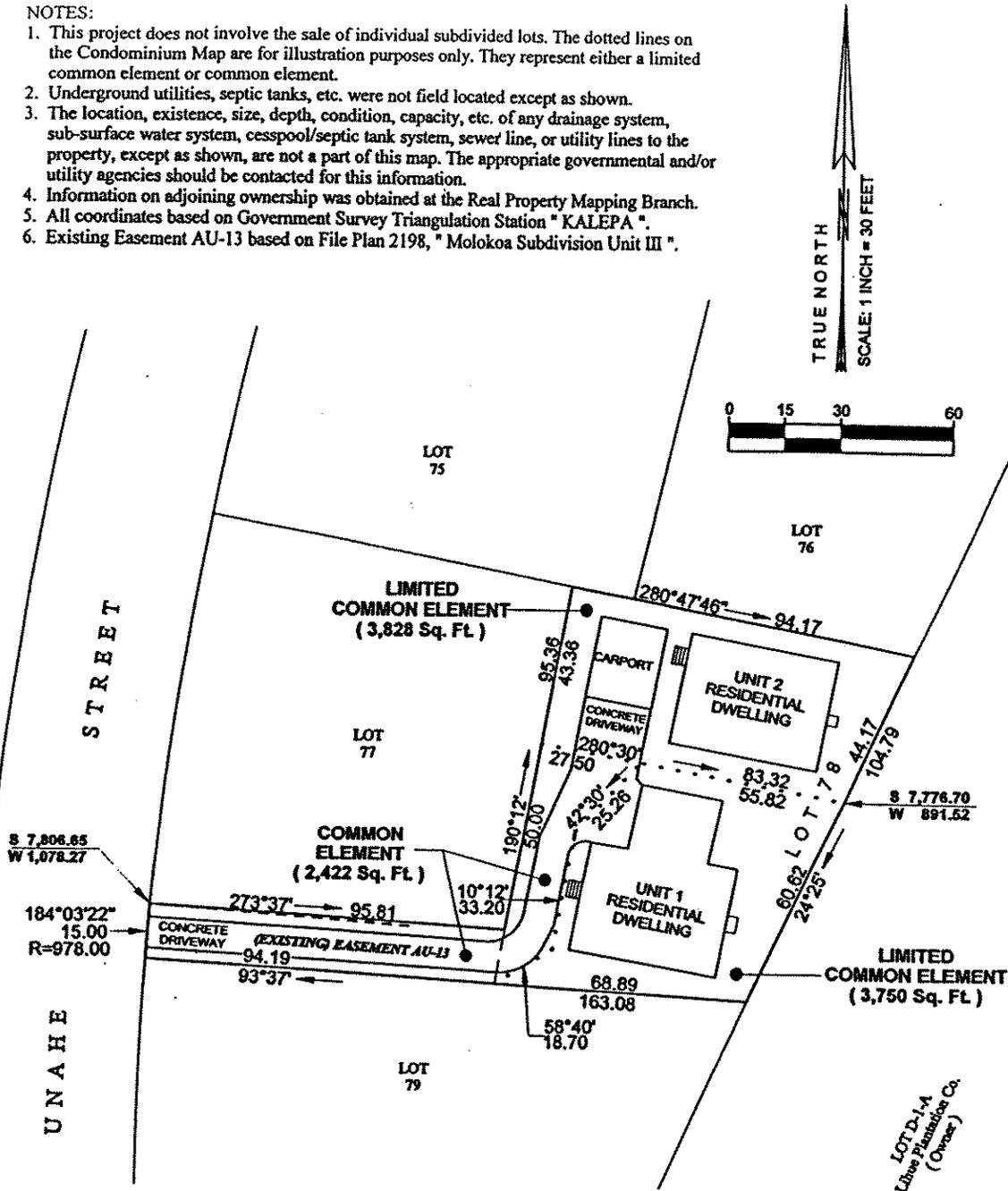
Real Estate License Disclosure: Member Robert J. German, RB-14738, is an active Hawaii licensed real estate broker, and the principal broker for Bob German, Inc. dba Aloha Island Properties, the project broker. Member Jimmy F. Wray, RS-56751, is an inactive Hawaii licensed real estate sales person.

EXHIBIT "A"

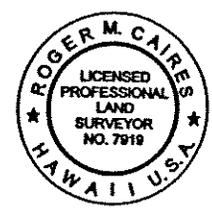
CONDOMINIUM MAP AND LIMITED COMMON ELEMENT LOCATIONS

NOTES:

1. This project does not involve the sale of individual subdivided lots. The dotted lines on the Condominium Map are for illustration purposes only. They represent either a limited common element or common element.
2. Underground utilities, septic tanks, etc. were not field located except as shown.
3. The location, existence, size, depth, condition, capacity, etc. of any drainage system, sub-surface water system, cesspool/septic tank system, sewer line, or utility lines to the property, except as shown, are not a part of this map. The appropriate governmental and/or utility agencies should be contacted for this information.
4. Information on adjoining ownership was obtained at the Real Property Mapping Branch.
5. All coordinates based on Government Survey Triangulation Station " KALEPA ".
6. Existing Easement AU-13 based on File Plan 2198, " Molokoa Subdivision Unit III ".



CONDOMINIUM MAP
FOR
" 3362 UNAHE STREET CONDOMINIUM "
UNITS 1, 2, AND COMMON ELEMENT
BEING LOT 78
MOLOKOA SUBDIVISION, UNIT III
F.P. 2198
LIHUE, KAUAI, HAWAII
Tax Map Key: (4) 3 - 6 - 017: 049
Area: 10,000 Sq. Ft.
Owner: Red and Yellow Kauai, L.L.C.
Date: January 2, 2004



THIS MAP WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

Roger M. Cairns 6/20/04
Signature
CAIRES LAND SURVEYING
P.O. Box 777
Kalaheo, Kauai, Hawaii 96741

- (h) That a deed conveying clear title will be given at closing, subject to certain obligations.
- (i) The Purchaser agrees to give future easements if reasonably required for the project.
- (j) Except for unexpired builder's statutory warranties and assignable appliance warranties, the Purchaser will accept the Unit "AS-IS". Purchaser assumes all risks regarding any potential hazardous materials on the condo property or property adjoining or in the vicinity, including liability for suits by third parties. Seller is, however, unaware of any such conditions on the property.
- (k) The payment of commissions, if any, is set out in the contract.
- (l) Time is of the essence of the obligations of Purchaser under the contract.

SPECIAL NOTICE:

THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.

END OF EXHIBIT B

7. If Seller subsequently certifies in writing to Escrow that Seller has terminated the sales contract in accordance with the terms thereof, Escrow shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract as funds of Seller and not as funds of the purchaser. Thereafter, such funds shall be free of the escrow established by this Agreement and shall be held by Escrow for the account of Seller.

SPECIAL NOTICE:

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

END OF EXHIBIT D

DATED: December 16, 1992

A Memorandum of said Declaration is dated December 16, 1992, recorded as Document No. 92-204411. Said Declaration was amended by instrument dated June 10, 1996, recorded as Document No. 96-098048.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DEED

DATED: December 16, 1992
RECORDED: Document No. 92-204412

The foregoing includes, but is not limited to, matters relating to agricultural activities, including sugar cane burning, on nearby lands.

7. RIGHT-OF-ENTRY

TO: CITIZENS UTILITIES COMPANY, a Delaware corporation

DATED: May 16, 1994
RECORDED: Document No. 95-114230
GRANTING: a right-of-entry and easement for the purpose of building, constructing, repairing, maintaining and operating pole and wire lines, etc.

8. The terms and provisions, including the failure to comply with covenants, conditions and reservations, contained in the following:

INSTRUMENT: DECLARATION

DATED: April 25, 1996
RECORDED: Document No. 96-057945

9. The terms and provisions, including the failure to comply with covenants, conditions and reservations, contained in the following:

INSTRUMENT: DEED

In witness whereof, the Developer has executed this Disclosure Abstract this 2nd day of June, 2004.

RED AND YELLOW KAUAI, LLC

By: 
ROBERT J. GERMAN, Trustee of the
Robert J. German Self-Trusteed Trust
Its Member

RECEIPT

The undersigned has received a copy of the foregoing Disclosure Abstract with Exhibit H this _____ day of _____, 2004.

Purchaser(s):

END OF EXHIBIT G

(*) 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 Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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

END OF EXHIBIT "H"

Arbitration: Disputes concerning any unit owner, the Association, its Board, Managing Agent or the condominium documents shall be submitted to arbitration.

END OF EXHIBIT I

EXHIBIT J

MEMORANDUM FROM THE COUNTY OF KAUAI PLANNING DEPARTMENT

BRYAN J. BAPTISTE
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

GARY L. HENNIGH
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUAI
PLANNING DEPARTMENT
Kapule Building
4444 Rice Street, Suite A473
Lihue, Hawaii, 96766-1326

TELEPHONE: 808.241.6677
FAX: 808.241.6699

DATE: September 9, 2004

9-13-04

TO: Senior Condominium Specialist
Real Estate Commission
P & VLD/DCCA
335 Merchant Street, Room 333
Honolulu, Hawaii 96813

FROM: Ian K. Costa, Director of Planning

SUBJECT: Certification of Inspection of Existing Buildings

Project Name: 3362 UNAHE STREET
Condominium Project (168)
Tax Map Key: (4) 3-6-017: 049

The attorney for the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai, (Section 514 A-40 (b), (1), Hawaii Revised Statutes, subject to the disclosures and waivers (item "5" below) specified herein, we certify the following:

1. The developer has contracted architect Virginia Latham to certify that the buildings on the proposed project referred to as 3362 Unahe Street Condominium Unit 1 and Unit 2 are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the Department.
2. There are no variances approved for the subject property.

Senior Condominium Specialist
3362 Unahe Street Condominium
TMK: (4) 3-6-017: 049
Page two
September 9, 2004

3. The parcel does not contain any outstanding nonconforming uses or structures as a result of the adoption or amendments of any ordinances or codes and regulations.
4. There are no notices of violation of County building or zoning codes outstanding according to our records.
5. WAIVER
The foregoing certification is not a warranty to any compliance with applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under subsection 514 A-40, (b), and (1), Hawaii Revised Statutes.

If you have any questions, please contact Sheilah Miyake at (808) 241-6677.

cc: Glen Hale, Attorney at Law
Red & Yellow Kauai, LLC, Project Developer

END OF EXHIBIT J

EXHIBIT "K"

CERTIFICATE OF GOOD STANDING



Department of Commerce and Consumer Affairs

CERTIFICATE OF GOOD STANDING

I, the undersigned Director of Commerce and Consumer Affairs of the State of Hawaii, do hereby certify that according to the records of this Department,

RED AND YELLOW KAUAI, LLC

was organized under the laws of the State of Hawaii on 03/08/2002; that it is an existing limited liability company in good standing and is duly authorized to transact business.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Department of Commerce and Consumer Affairs, at Honolulu, Hawaii.

Dated: 06/01/2004

Mark E. Neelkenwald

Director of Commerce and Consumer Affairs



To validate the authenticity of this certificate, please visit the website address listed below and enter the authorization number:

<http://www.ehawaii.gov/cogsva1>

Auth. No. 10168-C5-20040602013614140

END OF EXHIBIT "K"

EXHIBIT L

**STATEMENT OF DEVELOPER'S
AFFILIATION WITH BROKER**

ROBERT J. GERMAN, Trustee of the Robert J. German Self-Trusteed Trust, as a Member of RED AND YELLOW KAUAI, LLC, is licensed in the State of Hawaii as a real estate broker for Aloha Island Properties. The project will be listed with Aloha Island Properties from whom the above named Member may receive a commission based on his agreement with Aloha Island Properties.

Dated: June 2 , 2004.

RED AND YELLOW KAUAI, LLC,
a Hawaii Limited Liability Company

By:



ROBERT J. GERMAN, Trustee of the
Robert J. German Self-Trusteed Trust
Its Member

END OF EXHIBIT L