

CONDOMINIUM PUBLIC REPORT

Prepared & Issued By:

Developer David Allen Davidson, II and Stacey Stiller Davidson, husband and wife
Address 88 Kahiapo Place, Haiku, Hawaii 96708

Project Name (\*): Ho'ike'ana Mahina Haku Condominium
Address: 80 and 88 Kahiapo Place, Haiku, Hawaii 96708

Registration No. 5487 (conversion)

Effective Date: November 1, 2005
Expiration Date: December 1, 2006

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.
CONTINGENT FINAL: (green) The developer has legally created a condominium and has filed information with the Commission for this report which EXPIRES NINE (9) MONTHS after the above effective date.
FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
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.

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

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:

Pages 1, 2, 2-A, 2-B, 5, 9, 10, 14, 15, 19, 21, Exhibit B and the Receipt For Final Public Report(s) And Notice of Right to Cancel of the previously registered Contingent Final Public Report (effective date of December 21, 2004) are changed by this Final Public Report.

1. The Fee Owner of the condominium has changed from Koolau Properties LLC, a Nevada limited liability company, to David Allen Davidson, II and Stacey Stiller Davidson, husband and wife, via Apartment Deed dated November 15, 2004 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-010725.

2. Also the condominium is now encumbered by a mortgage to Koolau Properties LLC, a Nevada limited liability company, in the amount of \$749,000.00; said mortgage was dated November 15, 2004 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-010726.

**SPECIAL ATTENTION**

1. This is a CONDOMINIUM PROJECT, not a subdivision. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and does not represent a legally subdivided lot. The lines on the Condominium Map dividing the land into limited common element land areas are for illustration purposes only and should not be construed to be formal subdivision lines.
2. This Public Report does not constitute an approval of the Project by the Real Estate Commission or any other government agency, nor does it ensure that all County codes, ordinances and subdivision have necessarily been complied with.
3. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. The Purchaser should consult with the appropriate County agencies to determine whether the Purchaser may build a residential dwelling unit, or any other type of structure, on the property. Apartment A is an existing single-family dwelling, and Apartment B is an existing single-family dwelling.

4. Facilities and improvements normally associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.
5. In a condominium, all of the land included in the condominium remains a single, unsubdivided parcel of land for purposes of zoning and land use regulation. If one unit owner violates a regulation, the violation is attributable to both that owner and the innocent owner of each other unit. For example, if one owner builds or adds to a structure in a manner which violates height limits, size limit, setbacks, building permit requirements, or flood zone rules, or uses the unit for an unauthorized additional dwelling or short term rental, the violation applies to the entire condominium and the innocent unit owner may be subject to fines or may be denied a building permit as long as the violation remains uncured. BUYER SHOULD CONSULT WITH AN ATTORNEY CONCERNING THESE IMPORTANT RISKS.
6. The condominium is served by a single water meter and water use for both apartments will be billed to the Association of Apartment Owners by the County of Maui Department of Water Supply in a single bill. The Association is responsible for paying said charges and will allocate them among the apartment owners as common expense assessments. The method of allocation shall be by individual use meters ("submeters") apportioning the County's billings between both apartments by proportionate metered water usage.

The County of Maui Department of Water Supply has adopted a policy to require that each apartment in a condominium have its separate water meter. This condominium has only one meter, which is shared. This sharing may be in violation of these rules. Due to the current shortage of water in the Department's upcountry water system, it may not be possible to obtain a second meter for this property. WATER SERVICE IS NOW BEING PROVIDED TO BOTH APARTMENTS AND DEVELOPER KNOWS OF NO INSTANCE WHERE THE WATER DEPARTMENT HAS TERMINATED WATER SERVICE TO A CONDOMINIUM UPON CONVERSION. HOWEVER BUYER IS CAUTIONED THAT BUYER MAY BE REQUIRED TO OBTAIN A METER AS A CONDITION TO THE BUYER'S USE, EXPANSION OR CONSTRUCTION OF BUYER'S APARTMENT, OR THE ISSUANCE OF A BUILDING PERMIT FOR ANY PURPOSE. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL OR CONTACT THE DEPARTMENT OF WATER SUPPLY FOR ADDITIONAL INFORMATION.

7. Each apartment has its own septic disposal system. The location of the system appurtenant to Apartment A is 33.6 feet due northeast from the north corner of Apartment A. The location of the system appurtenant to Apartment B is 31 feet due northwest from the northwest corner of Apartment B. County sewer service is not available. The deed of each apartment will contain a plan showing the actual location of the septic system serving said apartment. The owner of each apartment shall be responsible for the cost of maintaining, operating and/or replacing said apartment's system. This may include upgrading a cesspool to a septic system as required by the proper governmental agency. No representations or warranties are made as to the quality, useful life, replacement cost, operating cost, or maintenance cost of the cesspools and appurtenances.
8. Under the current zoning ordinance, five (5) houses and one ohana (not more than 800 square feet of gross area) are permitted. For purposes of this Condominium, only one single-family dwelling and no accessory dwellings may be built within Limited Common Element A, and only two single-family dwellings (not limited by ohana size) may be constructed within Limited Common Element B. No further dwellings are permitted on this property, under the condominium documents.

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: David Allen Davidson, II and Stacey Stiller Davidson, husband and wife Phone: (808) 250-5121  
 Name\* (Business)  
88 Kahiapo Place  
 Business Address  
Haiku, HI 96708

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a limited liability Partnership (LLP); or a manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Real Estate Broker\*: CBIP, Inc. dba Coldwell Banker Island Properties Phone: (808) 572-7277  
 Name (Business)  
2463 South Kihei Road, Suite A22  
 Business Address  
Kihei, Hawaii 96753

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 877-2200  
 Name (Business)  
80 Puunene Avenue  
 Business Address  
Kahului, Hawaii 96732

General Contractor\*: N/A Phone: \_\_\_\_\_  
 Name (Business)  
 \_\_\_\_\_  
 Business Address  
 \_\_\_\_\_

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

Attorney for Developer: Thomas D. Welch Jr. Mancini, Welch & Geiger LLP Phone: (808) 871-8351  
 Name (Business)  
33 Lono Avenue, # 470  
 Business Address  
Kahului, Hawaii, 96732-1681

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

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

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2004-177081  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instrument [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 numbers, and dimensions of each apartment.

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 3830  
 Filed - Land Court: Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instrument [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:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2004-177082  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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:

Developer has reserved, and has delegated to each apartment owner, the right to amend the Declaration and Condominium Map to alter, expand and relocate the boundaries of each apartment.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:     Monthly                       Quarterly  
                                  Semi-Annually                       Annually

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

For Sub-leaseholds:

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

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

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

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

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:     Monthly                       Quarterly  
                                  Semi-Annually                       Annually

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

Other: Note: The County has not approved the subdivision of the units and their limited common elements into individual subdivided lots. They are being sold as condominiums only.

**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: 80 and 88 Kahiapo Place Tax Map Key (TMK): (2) 2-7-005-001  
Haiku, Hawaii 96708

Address  TMK is expected to change because N/A

Land Area: 1,250  square feet  acres(s) Zoning: Residential (R-3)\*

\*Under the current zoning, single-family residential use is permitted on this property.

Fee Owner: David Allen Davidson, II and  
Stacey Stillier Davidson, husband and wife  
 Name  
88 Kahiapo Place  
 Address  
Haiku, Hawaii 96708

Lessor: N/A  
 Name  
 Address

**C. Buildings and Other Improvements:**

1.  New Buildings  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion
2. Number of Buildings: 2 Floors Per Building: Apartment A: 2 Floors  
Apartment B: 2 Floors  
 Exhibit A contains further explanations.

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

4. Uses Permitted Use 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 checked="" type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input checked="" 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: \_\_\_\_\_

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

Other: No commercial uses (except residential rentals); 10 feet setbacks from boundary between Limited Common Elements A and B for any new structures. Existing structures within the 10 feet setback may remain and be repaired or replaced as needed. Under the current zoning ordinance, five (5) houses and one ohana (not more than 800 square feet of gross area) are permitted. For purposes of this Condominium, only one single-family dwelling and no accessory dwellings may be built within Limited Common Element A, and only two single-family dwellings (not limited by ohana size) may be constructed within Limited Common Element B. No further dwellings are permitted on this property, under the condominium documents.

There are no special use restrictions.

6. Interior (fill in appropriate numbers)

Elevators: 0 Stairways: 4 per building Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(identify)
A	1	3/2	1626.50	1125.00	Lanai/stoop area/ carport/utility
B	1	4/2	1626.50	1343.00	Lanai/stoop area/ carport/utility
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

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: Exterior surfaces of walls and roofs

Permitted Alterations to Apartments: Each apartment may be expanded, relocated and altered in owner's discretion. The owner may unilaterally amend the Declaration to redefine the apartment to conform the apartment boundaries as altered, expanded or relocated.

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

7. Parking Stalls:

Total Parking Stalls: 4\*

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

Each apartment will have the exclusive use of at least 2\* Parking stall(s).

Buyers are encouraged to find out which stall(s) will be available for their use.

\* Each apartment will have the right to park in the limited common element appurtenant to said apartment.

Commercial parking garage permitted in condominium project.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming Pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute/Enclosure(s)

Other: The Common Element Driveway as shown on the Condominium Map, and described in this declaration.

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations:

There are no violations  Violations will not be cured.

Violations and cost to cure are listed below:  Violations will be cured by \_\_\_\_\_  
(Date)

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

All structural components and mechanical and electrical installations are in good condition and in good working order.

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>All</u>	_____	_____
Structures	<u>All</u>	_____	_____
Lot	<u>Yes</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 A.  
 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 A\*.

as follows:

\*Note: Land areas referenced herein are not legally subdivided lots

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

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

as follows: Apartment A shall have a 50% undivided interest and Apartment B shall have a 50% undivided interest (referred to as the "common interests") in all common elements of the Project and a said same respective share in all common profits and common expenses of the Project and for all other purposes, including voting.

Notwithstanding the allocation of common interests in the preceding paragraph, the common interests for the sole purpose of the ownership of fee simple title to the underlying land (and, therefore, for the allocation of proceeds from the sale or partition of the land upon termination of the condominium or the taking of the land by eminent domain) shall be allocated between the apartments in proportion to the relative value of the land area included within the limited common elements appurtenant to each apartment (determined as if each limited common element were a separate parcel of land), and not according to the common interests for financial and voting purposes as stated above.

- 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 B describes the encumbrances against the title contained in the title report dated July 25, 2005 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
<b>Mortgage to Koolau Properties LLC, a Nevada limited liability company, dated November 15, 2004, recorded as Document No. 2005-010726.</b>	Buyer may lose his or her unit but buyer's deposit to be refunded, less any escrow cancellation fee.  All mortgage liens will be paid in full out of the proceeds of the sale of the first apartment and the apartments will be released from the liens at that time.

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**

There are no warranties.

2. **Appliances:**

There are no warranties.

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

Apartment A was completed in 1990; Apartment B was completed in 1990.

**H. Project Phases:**

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

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

(But see item C.6 above concerning each apartment owner's right to alter, expand or relocate each apartment.)

**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 the 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     C     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 \_\_\_\_\_

\*The charges shall be divided between the apartment owners based on actual use measured by a sub-meter.

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  D  contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement Date  August 19, 2004   
Exhibit  E  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 value of the buyer's apartment or its limited common elements: or (2) the amenities available for the 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 (i) Refund For Main Extension Enlargement Agreement, dated June 28, 1989, recorded in the State of Hawaii Bureau of Conveyances in Liber 23382 Page 366, which agreement allows for the reimbursement of a set amount of funds to the Applicant for having constructed an eight-inch line to the Maui County, Department of Water Supply standards, and also holds the Applicant (and all subsequent grantees, assignees, mortgagees, lienors, and other persons who may claim interest in the subject property) responsible for any claims against the workmanship of said eight-inch line and appurtenances; (ii) Agreement Relating to Fire Protection, dated January 12, 1990, recorded in said Bureau of Conveyances as Document No. 90-022162, which agreement allowed the subject property owner to build two single-family dwellings without providing fire protection by indemnifying the County of Maui from any claims against it arising from the lack of fire protection; (iii) Grant of a Waterline Easement, dated March 28, 2001, recorded in said Bureau of Conveyances as Document No. 2001-048163, which agreement encumbers a portion of the subject property granting a neighboring lot, identified for tax purposes as TMK (2) 2-7-005-027, an easement to place a water meter, lines and appurtenances in a portion of the subject property.

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. 5487 filed with the Real Estate Commission on October 4, 2004.

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

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

**C. Additional Information Not Covered Above**

1. Setbacks. No new structures will be placed in any Limited Common Element within a setback area of ten feet from the boundary dividing Limited Common Element A from Limited Common Element B, unless agreed to by the owners of both apartments A and B. Existing structures within the said setback area may remain, and be repaired and replaced as needed.

2. Water. The condominium is served by a single water meter and water use for both apartments will be billed to the Association of Apartment Owners by the County of Maui Department of Water Supply in a single bill. The Association is responsible for paying said charges and will allocate them among the apartment owners as common expense assessments. The method of allocation shall be by individual use meters ("submeters") apportioning the County's billings between both apartments by proportionate metered water usage.

The County of Maui Department of Water Supply has adopted a policy to require that each apartment in a condominium have its separate water meter. This condominium has only one meter, which is shared. This sharing may be in violation of these rules. Due to the current shortage of water in the Department's upcountry water system, it may not be possible to obtain a second meter for this property. WATER SERVICE IS NOW BEING PROVIDED TO BOTH APARTMENTS AND DEVELOPER KNOWS OF NO INSTANCE WHERE THE WATER DEPARTMENT HAS TERMINATED WATER SERVICE TO A CONDOMINIUM UPON CONVERSION. HOWEVER BUYER IS CAUTIONED THAT BUYER MAY BE REQUIRED TO OBTAIN A METER AS A CONDITION TO THE BUYER'S USE, EXPANSION OR CONSTRUCTION OF BUYER'S APARTMENT, OR THE ISSUANCE OF A BUILDING PERMIT FOR ANY PURPOSE. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL OR CONTACT THE DEPARTMENT OF WATER SUPPLY FOR ADDITIONAL INFORMATION.

3. Mailboxes. Each apartment has its own separate mailbox.

4. Sewer. Each apartment has its own septic disposal system. The location of the system appurtenant to Apartment A is 33.6 feet due northeast from the north corner of Apartment A. The location of the system appurtenant to Apartment B is 31 feet due northwest from the northwest corner of Apartment B. County sewer service is not available. The deed of each apartment will contain a plan showing the actual location of the septic system serving said apartment. The owner of each apartment shall be responsible for the cost of maintaining, operating and/or replacing said apartment's system. This may include upgrading a cesspool to a septic system as required by the proper governmental agency. No representations or warranties are made as to the quality, useful life, replacement cost, operating cost, or maintenance cost of the cesspools and appurtenances.

5. Limitations. Under the current zoning ordinance, five (5) houses and one ohana (not more than 800 square feet of gross area) are permitted. For purposes of this Condominium, only one single-family dwelling and no accessory dwellings may be built within Limited Common Element A, and only two single-family dwellings (not limited by ohana size) may be constructed within Limited Common Element B. No further dwellings are permitted on this property, under the condominium documents.

6. Fire Protection. The property is subject to agreements with the County of Maui acknowledging that the County's fire protection facilities and water supply may be inadequate to protect the buildings in the event of fire. BUYER SHOULD CONSULT AN ENGINEER AND BUYER'S INSURANCE CARRIER IN ORDER TO EVALUATE THE RISKS AFFECTING THIS PROPERTY.

7. Zoning and Land Use Violations. In a condominium, all of the land included in the condominium remains a single, undivided parcel of land for purposes of zoning and land use regulation. If one unit owner violates a regulation, the violation is attributable to both that owner and the innocent owner of each other unit. For example, if one owner builds or adds to a structure in a manner which violates height limits, size limit, setbacks, building permit requirements, or flood zone rules, or uses the unit for an

unauthorized additional dwelling or short term rental, the violation applies to the entire condominium and the innocent unit owner may be subject to fines or may be denied a building permit as long as the violation remains uncured. BUYER SHOULD CONSULT WITH AN ATTORNEY CONCERNING THESE IMPORTANT RISKS.

8. Pre-Existing Buildings. Since the buildings are all pre-existing there may be lead paint, asbestos and other environmentally harmful materials contained in the buildings which may be hazardous and which would not be permitted for a new building today.

9. Hazardous materials. The developer neither prepared nor commissioned a Phase I Environmental Site Assessment and makes no representations or warranties whatsoever. The developer has made no independent investigation as to asbestos or other hazardous substances in the apartments or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of, hazardous materials laws. Buyer acknowledges that in light of the age of the Project, there may be asbestos and other hazardous substances in the apartments, or in, under or around the Project. Because of the possible presence of such substances, Buyer should have the apartment inspected to determine the extent (if any) of such contamination and any necessary remedial action. The developer will not correct any defects in the apartments or in the Project or anything installed or contained therein and Buyer expressly releases the developer from any liability to Buyer if any hazardous materials are discovered.

10. Lead Warning Statement. Pursuant to federal law, 42, U.S.C 4852(d), the Residential lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligent quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

11. Insurance. Hawaii Law requires that the Association of Apartment Owners carry liability insurance on the entire condominium as a common expense. Buyers are urged to review this requirement with their insurance advisors.

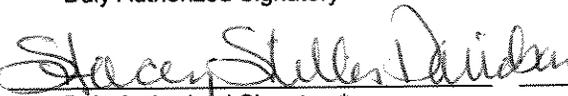
12. Encroachment. As shown on the Condominium Map, a section of the Condominium may encroach upon the Maui County road right of way and paved road along Kahiapo Place.

EACH BUYER IS ADVISED TO CONTACT THE APPROPRIATE GOVERNMENT AGENCIES TO DETERMINE SPECIFIC REQUIREMENTS FOR THIS PROPERTY, AND TO CONSULT WITH AN ATTORNEY AND OTHER APPROPRIATE PROFESSIONALS.

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

David Allen Davidson, II and Stacey Stiller Davidson, husband and wife  
Printed Name of Developer

By:  8-18-05  
Duly Authorized Signatory\* Date

By:  8/18/05  
Duly Authorized Signatory\* Date

David Allen Davidson, II and Stacey Stiller Davidson / Developer  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

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

## EXHIBIT A

### HO'IKE'ANA MAHINA HAKU CONDOMINIUM

#### DESCRIPTION OF BUILDINGS:

The condominium consists of two separate apartments, each of which is a single-family dwelling. Each apartment is located on that portion of the land defined on the Condominium File Plan as a limited common element appurtenant to and for the exclusive use of said apartment. Each building is constructed primarily of wood, glass and related materials. Upon expansion, relocation, construction or reconstruction of any apartment by any owner(s) thereof as provided in the Declaration, the modified or new building containing any apartment may be constructed of any other building material meeting applicable building codes, including but not limited to concrete, masonry, plaster, wood, glass or related materials.

#### DESCRIPTION OF APARTMENTS:

The condominium shall consist of two (2) apartments designated Apartment "A" and Apartment "B", with Apartment "A" the western most and Apartment "B" the eastern most. Each apartment is shown on the Condominium File Plan.

Apartment "A" is a two-story residence containing 1626.50 square feet of net living area, and includes three bedrooms, two bathrooms, a kitchen, great room, family room, den studio, closet spaces, lanai, stoop area, utility area, laundry area and carport area.

Apartment "B" is a two-story residence containing 1626.50 square feet of net living area, and includes four bedrooms, two bathrooms, a kitchen, great room, family room, entry room, closet spaces, lanais, stoop area, store room, laundry room and carport.

Apartment A has direct access to its appurtenant limited common element on which the apartment is located, which in turn provides access to a common element driveway, which provides access to a public road (Kahiapo Place).

Apartment B has direct access to its appurtenant limited common element on which the apartment is located, which in turn provides access to a common element driveway, which provides access to a public road (Kahiapo Place).

The boundaries of each apartment shall consist of the exterior finished surface of all exterior walls, roofs, doors, windows, and also include all foundations and underpinnings, and other appurtenant structures and facilities within said boundaries. The responsibility for maintenance, repair, replacement and reconstruction and insurance of each apartment is delegated to the owner(s) of said apartment, and all of the cost thereof shall be borne by the owner(s) of said apartment, at no cost to the owner(s) of any other apartment or the association.

LOCATION, RELOCATION, AND NUMBERING OF APARTMENTS:

Each apartment is located as shown on the condominium file plan. The apartments are lettered "A" and "B" consecutively from west to east. As provided in Section K.2. of the Declaration, at the option of the owner(s) of each apartment, said apartment may be relocated to any other location within the limited common element appurtenant to said apartment, and the boundaries of said apartment may be changed, by amendment to the Declaration as provided in Section K.2. of the Declaration; provided however, that (a) all construction in connection therewith shall comply with all applicable zoning and building codes; and (b) no portion of the structure comprising an apartment or other structure shall be constructed outside of the boundaries of the area designated for said unit as its limited common element as shown on the Condominium File Plan, or within any required setbacks.

APPROXIMATE FLOOR AREA OF APARTMENTS:

<u>Apartment</u>	<u>Floor Area</u>
A	1626.50 square feet of living area 1125.00 square feet of other area
B	1626.50 square feet of living area 1343.00 square feet of other area

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

COMMON ELEMENTS:

The common elements include (a) the land in fee simple; (b) the Common Element Driveway as shown on the Condominium Map; (c) the shared water meter; (d) those shared water, electric and telephone lines and appurtenances; and (e) the limited common elements described below. The common elements shall also include any other utility installations serving more than one apartment.

LIMITED COMMON ELEMENTS:

Each apartment has appurtenant to it and for its exclusive use the land described in the condominium file plan as appurtenant thereto. The file plan describes these areas as "Limited Common Element A" appurtenant to Apartment A and "Limited Common Element B" appurtenant to Apartment B. Each area is appurtenant to and for the exclusive use of its apartment and which is physically located on said limited common element as shown on the condominium file plan. Each limited common element includes the land located underneath the apartment located thereon.

EXHIBIT B  
**Encumbrances against Title**

1. Real Property Taxes which may be due and owing. Reference is made to the Tax Assessor's Office, County of Maui.
2. Title to all mineral and metallic mines reserved to the State of Hawaii.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : REFUND FOR MAIN EXTENSION ENLARGEMENT AGREEMENT

DATED : June 28, 1989

RECORDED : Liber 23382 Page 366

PARTIES : MARK FERGUSON and JAN M. HASSE, husband and wife, and DEPARTMENT OF WATER SUPPLY of the County of Maui

This agreement requires the land owner(s) to comply with certain requirements for construction of a waterline extension as a condition of obtaining County water service. The water service is now effective, and Developer has no information to suggest that the requirements of this agreement have not been complied with. Landowner(s) and their successors in title indemnify the County for any damages arising out of the installation. Buyer should consult their attorney concerning the effect of this agreement.

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

INSTRUMENT : SECTION 14.04.010(E) AGREEMENT RELATING TO FIRE PROTECTION

DATED : January 12, 1990

RECORDED : Document No. 90-022162

PARTIES : MARK H. T. FERGUSON and JAN HASSE FERGUSON, husband and wife, and DEPARTMENT OF WATER SUPPLY of the County of Maui

The condominium has water service provided by the County of Maui, through its Department of Water Supply. This water system is not capable of providing adequate fire protection. The Department of Water Supply allowed the construction of two single-family dwellings on the condition that the land owner(s) (and their successors) indemnify the County from any damages arising from the property not having adequate fire protection. Buyer should consult their attorney concerning the effect of this agreement.

5. GRANT

TO : AROL CHARLES FRERKING and SYLVIA ANTOINETTE  
FRERKING

DATED : March 28, 2001  
RECORDED : Document No. 2001-048163  
GRANTING : a perpetual right and easement to install, reinstall, maintain,  
operate, repair, and remove water lines, meter and related  
equipment with the meter

This establishes a waterline easement across the condominium land in an area which is approximately 100 feet or less from Kahiapo Place and will not adversely affect the use or enjoyment of the apartments.

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

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR  
"HO'IKE'ANA MAHINA HAKU" CONDOMINIUM PROJECT

DATED : August 19, 2004  
RECORDED : Document No. 2004-177081  
MAP : 3830 and any amendments thereto

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

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS  
DATED : August 19, 2004  
RECORDED : Document No. 2004-177082

8. JOINDER OF CONDOMINIUM DOCUMENTS THE HO'IKE'ANA MAHINA HAKU CONDOMINIUM dated August 20, 2004, by KOOLAU PROPERTIES, LLC, a Hawaii limited liability company, recorded as Document No. 2004-177083.

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

INSTRUMENT : APARTMENT DEED  
DATED : November 15, 2004  
RECORDED : Document No. 2005-010725

10. MORTGAGE

MORTGAGOR : DAVID ALLEN DAVIDSON, II and STACEY STILLER DAVIDSON,  
husband and wife  
MORTGAGEE : KOOLAU PROPERTIES LLC, a Nevada limited liability company  
DATED : November 15, 2004  
RECORDED : Document No. 2005-010726  
AMOUNT : \$749,000.00

EXHIBIT C

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>
A	\$132.50 per month x 12 = \$1590.00 per year
B	\$132.50 per month x 12 = \$1590.00 per year

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
  - common elements only
  - common elements and apartments
- Elevator
- Gas
  - common elements only
  - common elements and apartments
- Refuse Collection
- Telephone
- Water(†)

\$60.00/month x 12 months = \$720.00

Maintenance, Repairs and Supplies

- Building
- Grounds
- Water lines
- Common Element Driveway

\$10.00/month x 12 months = \$120.00

\$25.00/month x 12 months = \$300.00

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance

- Liability Insurance premiums

\$150.00/month x 12 months = \$1800.00

Reserves(\*)

- Replacement of common water lines and appurtenances
- Replacement of Common Element Driveway

\$5.00/month x 12 months = \$60.00

\$5.00/month x 12 months = \$60.00

Taxes and Government Assessments

Audit Fees

\$10.00/month x 12 months = \$120.00

Other

TOTAL

\$265.00/month x 12 months = \$3180.00

I, the undersigned condominium developer for the Ho'ike'ana Mahina Haku Condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

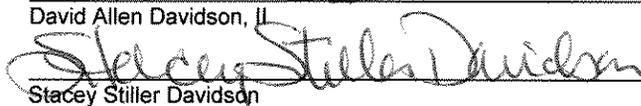


David Allen Davidson, II

(Signature)

8-18-05

Date



Stacey Stiller Davidson

(Signature)

8-18-05

Date

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

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

This reserve amount is not based on a reserve study required by Hawaii law. The reserve study will be performed by the Association of Apartment Owners.

(†) Water use will be metered and billed based on actual amounts used by each apartment.

ATTACHMENT 1 TO ESTIMATE OF  
MAINTENANCE FEE DISBURSEMENTS

The Developer, in arriving at the figure for "Reserves" in the attached estimate, has not conducted a reserve study in accordance with HRS §514A-83.6 and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Upon its formation, the Association should conduct a replacement reserve study for the Common Element Driveway.

EXHIBIT D

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit Receipt and Sales Contract contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Deposit Receipt and Sales Contract states:

- a. The total purchase price, method of payment and additional sums which must be paid in connections with the purchase of an apartment.
- b. That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Deposit Receipt and Sales Contract.
- c. That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefit to be derived from the purchase of an apartment.
- d. That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- e. Requirements relating to the purchaser's financing of the purchase of an apartment.
- f. That the apartment and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- g. That the Developer makes no warranties regarding the apartment, the Project or anything installed or contained in the apartment or the Project.
- h. That the Project may be subject to ongoing sales activities which may result in certain annoyances to the purchaser.
- i. That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

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

## EXHIBIT E

### SUMMARY OF ESCROW AGREEMENT

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

- a. Escrow will let the purchaser know when payments are due.
- b. Escrow will arrange for the purchaser to sign all necessary documents.
- c. The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

RECEIPT FOR PUBLIC REPORTS(S) AND NOTICE OF RIGHT TO CANCEL

I acknowledge receipt of the Developer's \_\_\_\_\_ Final \_\_\_\_\_ Public Report(s) and Disclosure Abstract  
(Preliminary, Final &/or Supplementary)  
contained in the public report, in connection with my purchase of apartment(s) \_\_\_\_\_  
(Apt. No.)

in the Ho'ike'ana Mahina Haku Condominium \_\_\_\_\_  
(Name of Condominium Project)

I understand that I have a legal right under Hawaii law to cancel my purchase, if I desire to do so, without any penalty or obligation within thirty (30) days from the date the above Public Reports(s) was delivered to me. If I cancel, I understand that I will be entitled to receive the refund of any down payment or deposit, less any escrow cancellation fees and other costs, up to \$250.

If I decide to cancel, I understand that I can do so by notifying David Allen Davidson, II and Stacey Stiller Davidson, husband and wife, whose mailing address is 88 Kahiapo Place, Haiku, Hawaii 96708 by mail or telegram sent before: (1) the conveyance of my apartment(s) to me; or (2) midnight of the thirtieth day after delivery of the Public Reports(s) to me, whichever is earlier. If I send or deliver my written notice some other way, it must be delivered to the above address no later than that time. I understand that I can use any written statement that is signed and dated by me and states my intention to cancel, or I may use this notice by checking the appropriate box and by signing and dating below.

I understand that if I do not act within the above thirty-day period or if the apartment is conveyed to me within the above thirty-day period, I will be considered to have executed this receipt and to have waived my right to cancel my purchase. I also understand that I can waive my right to cancel by checking the appropriate box, by signing and dating below, and by returning this notice to David Allen Davidson, II and Stacey Stiller Davidson.

I HAVE RECEIVED A COPY OF:

- (1) THE DEVELOPER'S \_\_\_\_\_ PUBLIC REPORT(S) ON \_\_\_\_\_; AND
- (2) THE DISCLOSURE ABSTRACT CONTAINED IN THE PUBLIC REPORT.

\_\_\_\_\_  
*Purchaser's Signature* \_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Purchaser's Signature* \_\_\_\_\_  
*Date*

I HAVE HAD AN OPPORTUNITY TO READ THE PUBLIC REPORT(S) AND

I WAIVE MY RIGHT TO CANCEL.       I HEREBY EXERCISE MY RIGHT TO CANCEL

\_\_\_\_\_  
*Purchaser's Signature* \_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Purchaser's Signature* \_\_\_\_\_  
*Date*