

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer ERIKA HAYDEN, YUKI DANIELS, EMY FIONA DANIELS and MIKI OKUN
Business Address 7528 Charmant Drive, #432, San Diego, CA 92122

Project Name (*): 53-012 POKIWAI PLACE
Address: 53-012 Pokiwai Place, Hauula, Hawaii 96717

Registration No. 5605

Effective date: May 18, 2010
Expiration date: June 18, 2011

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

X SUPPLEMENTARY: (pink) This report updates information contained in the:
[] Preliminary Public Report dated:
[X] Final Public Report dated: March 18, 2005
[] Supplementary Public Report dated:

And [] Supersedes all prior public reports.
[X] Must be read together with March 18, 2005 Final Public Report
[X] This report reactivates the March 18, 2005 Final public report(s) which expired on April 18, 2006

(*) Exactly as named in the Declaration

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report as Exhibit "H".

Not Required - Disclosures covered in this report

Summary of Changes from Earlier Public Reports:

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

- No prior reports have been issued by the developer.
 Changes made are as follows:

(1) The Developer has changed because of the death of original Developer MITSUKO TSUNOCHI on November 14, 2007, at Palm Springs, California. Ownership of the Project was conveyed by EMY DANIELS, Personal Representative of the Estate of MITSUKO TSUNOCHI, Deceased, appointed by those letters of Administration, filed on March 11, 2008, in Case No. INP021624, in the Superior Court of California, with Acknowledgment of Authority dated April 15, 2008, in Probate No. 08-1-0203, filed in the Circuit Court of the First Circuit, State of Hawaii. Conveyance was made to the four lawful heirs of Mitsuko Tsunochi – ERIKA HAYDEN, YUKI DANIELS, EMY FIONA DANIELS and MIKI OKUNO – in equal 25% interests, as Tenants in Common, by those certain Apartment Deeds dated November 3, 2008, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on November 17, 2008, as Document Nos. 3806474 and 3806475, and recorded in the Bureau of Conveyances of the State of Hawaii on November 17, 2008, as Document Nos. 2008-174854 and 2008-174855. ERIKA HAYDEN, YUKI DANIELS, EMY FIONA DANIELS and MIKI OKUNO shall be collectively known as the "Developer."

(2) The Developer has submitted new title reports for the two units dated January 15, 2010, issued by Title Guaranty of Hawaii, Inc. (See page 14, Exhibit E).

(3) The Condominium Map has been amended to reflect structure position discrepancies identified by survey performed by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 15, 2009, and which are applicable to Unit 53-012A only. The amended Map was recorded on April 8, 2010, in the Bureau of Conveyances as Document No. 2010-047237, and also filed as Land Court Document No. 3953785. (See Page 6) The structures met all applicable building codes at time of construction in 1973 and no variances were granted. (See Exhibit I; Page 13, Para. 11b)

(4) The new title reports issued by Title Guaranty of Hawaii, Inc., (See page 14, Exhibit E), identify the following additional encumbrances not contained in the Final Report dated March 18, 2005: (1) Structure position discrepancies as shown on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, with Jaime F. Alimboyoguen, LLC, dated March 9, 2004; (2) As to Unit 53-012A – Structure position discrepancies and Encroachments as shown on the survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 15, 2009; (3) As to Unit 53-012 – Mortgage dated June 27, 2005, filed as Land Court Document No. 3289626 and recorded in said Bureau as Document No. 2005-131228; and (4) As to Unit 53-012A – Mortgage dated June 27, 2005, filed as Land Court Document No. 3289627 and recorded in said Bureau as Document No. 2005-131229.

(5) There have been no changes to the condominium project and no other changes to the information in the developer's Final public report that would render the Developer's final public report misleading to purchasers in any material respect.

SPECIAL ATTENTION

THE DEVELOPER'S FINAL REPORT EXPIRED ON APRIL 18, 2006. PURSUANT TO SECTION 16-107-19, HAWAII ADMINISTRATIVE RULES, SALES CONTRACTS EXECUTED DURING THE PERIOD THAT THE PUBLIC REPORT WAS NOT IN EFFECT MAY BE RESCINDED AT THE OPTION OF THE PURCHASER AND ALL MONIES REFUNDED TO THE PURCHASER. THE PURCHASER'S RIGHT TO RESCIND SHALL BE VOID THIRTY (30) DAYS AFTER THE RECEIPT OF WRITTEN NOTIFICATION OF THESE RIGHTS FROM THE DEVELOPER OR HIS REAL ESTATE AGENT.

The Developer has disclosed the following:

- (a) 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 dotted lines in the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustration purposes only and should not be construed to be formal subdivision lines.
- (b) No warranties are given to the purchaser as to the construction, materials or workmanship of the Project. The Project is being sold in "as is" condition (pages 12 & 15).

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

THE PROSPECTIVE PURCHASERS ARE CAUTIONED TO CAREFULLY REVIEW ALL DOCUMENTS REGARDING THIS CONDOMINIUM PROJECT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Erika Hayden, Yuki Daniels, Emy Fiona Daniels and Miki Okuno Phone: (808) 550-4207
Name* (Business)
7528 Charmant Drive, #432,
Business Address
San Diego, CA 92122

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

N/A

Real Estate Broker: Marlene's Realty, Inc. Phone: (808) 239-8114
Name (Business)
47- 388 Hui Iwa Street, Suite 21A
Business Address
Kaneohe, Hawai'i 96744

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

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

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

Attorney for Developer: Costa & DeLacy, LLLC Phone: (808) 550-4207
James A. DeLacy, Esq. (Business)
Name
1136 Union Mall, Suite 603
Business Address
Honolulu, HI 96813

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

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

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

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

The Declaration for this condominium is:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. <u>2005-034533</u>	
		Book _____	Page _____
<input checked="" type="checkbox"/> Filed -	Land Court:	Document No. <u>3232549</u>	

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

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

The Condominium Map for this condominium project is:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded-	Bureau of Conveyances	Condo Map No. <u>3949</u>	
<input checked="" type="checkbox"/> Filed -	Land Court	Condo Map No. <u>1697</u>	

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

Amendment to Condominium Map of "53-012 Pokiwai Place", April 8, 2010, recorded in Bureau of Conveyances as Document No. 2010-047237, and filed in the Land Court as Document No. 3953785.

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

The Bylaws for this condominium are:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. <u>2005-034534</u>	
		Book _____	Page _____
<input checked="" type="checkbox"/> Filed -	Land Court:	Document No. <u>3232550</u>	

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

Fee Owner:

Erika Hayden, Yuki Daniels, Emy Fiona Daniels and Miki Okuno
Name
7528 Charmant Drive, #432
Address
San Diego, CA 92122

Lessor: N/A
Name

Address

C. Buildings and Other Improvements:

1. New Building(s)
 Conversion of Existing Building(s)
 Both New Building(s) and Conversion

2. Number of Buildings: 2 Floors Per Building 1

Exhibit _____ contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other _____

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes No

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	X		
Structures		X	
Lot	X		

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

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

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

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

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

described in Exhibit C .

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit D .

as follows:

NOTE: Reference to said Exhibit "D" to "Dwelling Areas" does not mean 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 apartments 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:

Unit 53-012	--	50%
Unit 53-012A	--	50%

- E. **Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit E describes the encumbrances against the title contained in the amended title reports dated January 15, 2010 and issued by Title Guaranty of Hawaii, Inc.

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 F contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated March 24, 2010

Exhibit G contains a summary of the pertinent provisions of the escrow agreement.

Other _____

B. Buyers Right to Cancel Sales Contract:

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

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

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

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

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

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

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyers 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 on April 8, 2010, to reflect those certain structure position discrepancies noted by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 15, 2009, and which are applicable to Unit 53-012A only. (See Exhibit E)
 - 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 Covenants, conditions and reservations contained in Deed dated November 6, 1959, filed as Land Court Document No. 254339, and recorded in said Bureau of Conveyances in Liber 3803, Page 209.

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

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

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

This Public Report is a part of Registration No. 5605 filed with the Real Estate Commission on February 25, 2005.

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

YELLOW paper stock

WHITE paper stock

PINK paper stock

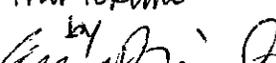
- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SHL 2000) [Section 514A-1.6] (The 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.

ERIKA HAYDEN, YUKI DANIELS, EMY FIONA DANIELS and MIKI OKUNO
Printed Name of Developer(s)

By:  December 18, 2009
Duly Authorized Signatory* Date

By: Yuki Daniels by  POA for Yuki Daniels December 15, 2009
Duly Authorized Signatory* Date

By:  December 18, 2009
Duly Authorized Signatory* Date

By: Miki Okuno by  POA for Miki Okuno December 18, 2009
Duly Authorized Signatory* Date

ERIKA HAYDEN, YUKI DANIELS, EMY FIONA DANIELS and MIKI OKUNO
Printed Name and Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

*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 "E"

ENCUMBRANCES AGAINST TITLE .

1. For Real Property Taxes that may be due and owing, reference is made to the Office of the Tax Assessor, City and County of Honolulu.

2. AS TO PARCEL SECOND, LOT 52:

(A) A private easement for a road, running in favor of the owners of the premises designated on the said map as exception 4 (L.C.A. 4331, Apana 1) sufficiently wide for the passage of vehicles between the public roadway at the beach and the said premises Exception No. 4 along and near a fence designated on the map as marking a line beginning at a point on the west side of the highway and running 63° 30' 480.0 feet along the north side of said Lot 7 to the west corner of said Lot 7 and into the premises aforesaid. Noted on Transfer Certificate of Title No. 13,122.

(B) A perpetual easement for road purposes in favor of other owners of Lots of said Application No. 124 as granted in DEEDS noted on Transfer Certificates of Titles No. 13,122, 13,170, 15,674 and 17,398.

(C) Rights of others who may own undivided interest(s), or have easement or access rights, in said parcel.

3) AS TO PARCEL THIRD,:

(A) Reservation in favor of the State of Hawaii of all mineral and metallic mines.

4) Free flowage of a Stream.

5) The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in that certain "Deed", dated November 6, 1959, filed in said Office as Document No. 254339, recorded in said Bureau in Liber 3802 at Page 209.

6) Structure position discrepancies as shown on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, with Jaime F. Alimboyoguen, LLC, dated March 9, 2004.

7) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain "Declaration of Condominium Property Regime for 53-012 Pokiawai Place", dated February 16, 2005, filed in said Office as Document No. 3232549, and recorded in said Bureau as Document No. 2005-034533, and as shown on Condominium Map Nos. 1697 filed in said Office, and 3949 recorded in said Bureau, and any amendments thereto.

8) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in those certain "By-Laws of the Association of Unit Owners" dated February 16, 2005, filed in said Office as Document No. 3232550, and recorded in said Bureau as Document No. 2005-034534.

9) AS TO UNIT 53-012:

MORTGAGE , LOAN/ACCOUNT NO. 00010202112006005

MORTGAGOR : MITSUKO TSUNOCHI, unmarried

MORTGAGEE : MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., solely as a nominee for COUNTRYWIDE HOME LOANS, INC., a New York corporation

DATED : June 27, 2005

FILED : Land Court Document No. 3289626

RECORDED : Document No. 2005-131228

10) AS TO UNIT 53-012A:

MORTGAGE , LOAN/ACCOUNT NO. 00010202112006005

MORTGAGOR : MITSUKO TSUNOCHI, unmarried

MORTGAGEE : MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., solely as a nominee for COUNTRYWIDE HOME LOANS, INC., a New York corporation

DATED : June 27, 2005

FILED : Land Court Document No. 3289627

RECORDED : Document No. 2005-131229

11) AS TO UNIT 53-012A:

Structure position discrepancies as shown on the survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 15, 2009.

12) AS TO UNIT 53-012A:

Encroachment(s) as shown on the survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 15, 2009.

EXHIBIT "G"

Summary of the Condominium Escrow Agreement dated March 24, 2010, between the Developer and Title Guaranty Escrow Services, Inc.:

I. All deposits will be paid to Escrow. A copy of each Sales Contract and all payments made to purchase a Unit shall be turned over to the Escrow Agent. Any interest earned on funds deposited in escrow shall accrue as specified in the Sale Contract. If Escrow is requested to establish a separate account for a purchaser, the purchaser shall pay Escrow a fee of \$25.00 for each such separate account and shall furnish Escrow the purchaser's social security or federal identification number, and any interest earned on funds deposited in such account shall accrue to the credit of the purchaser.

2. Refunds. A Buyer shall be entitled to a return of his funds, and Escrow shall pay such funds to such Buyer, without interest, in accordance with the Sales Contract if any of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developers exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) The Purchaser shall have notified Escrow of the Purchaser exercise of Purchaser's right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes; or

(d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63.

Upon such refund, Escrow Agent shall be entitled to a reasonable fee not to exceed \$250 or a fee commensurate with the work done by Escrow prior to cancellation.

3. Requirements Prior to Disbursement of Buyer's Funds. Escrow Agent shall make no disbursements of Buyers funds, pursuant to paragraph 3 of the Escrow Agreement until all of the following have occurred:

(a) the Real Estate Commission has issued a final public report (the "Final Report") on the Project; and

(b) The purchaser shall have been given and shall have acknowledged receipt of (i) a copy of said Public Report and (ii) notice of purchaser's thirty-day cancellation right upon a form prescribed by the Real Estate Commission; and

(c) The purchaser shall have waived the right to cancel or be deemed to have waived the right to cancel, in accordance with Section 514A-62 of the Act; and

(d) Developer's attorney shall delivered a written opinion to Escrow that (i) the requirements of Sections 514A-62 and 514A-63 of the Act shall have been

complied with; (ii) the purchaser's sales contract has become effective and binding upon Purchaser; and (iii) the requirements of Section 521-38, HRS, if applicable, have been satisfied; and

- (e) Seller shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract.

4. Purchaser's Default. Developer shall give notice in writing to Escrow of the occurrence of each event which initiates an obligation of a purchaser to make a payment to Escrow pursuant to the sales contract as well as notice of the amount and due date of such payment. Escrow shall thereupon promptly give the purchaser notice of the amount and due date of such payment. If the purchaser fails to make such payment to Escrow on or before the due date thereof or if the purchaser fails to perform in any matter which is being handled by Escrow, Escrow shall promptly notify Developer of any such failure on the part of the purchaser. If Developer subsequently certifies in writing to Escrow that Developer has terminated the sales contract in accordance with the terms thereof and provides to Escrow copies of all such notices of termination sent to the purchaser, Escrow shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract as funds of Developer and not as funds of the purchaser. Thereafter, such funds shall be free of the escrow established by Developer. Upon written request by Developer, Escrow shall pay such sums to Developer, less any escrow cancellation fee, shall return to Developer the sales contract of such purchase and any other documents theretofore delivered by Developer to Escrow, and shall return other documents theretofore delivered to Escrow in connection with the purchase of the unit to the person from whom, or entity from which, such documents were received. Escrow shall thereupon be released from any further duties or liability hereunder with respect to such funds and such purchaser.