

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer: Ocean Resource Innovations LLC
Address: 96-1367 Waihona Street, Pearl City, HI 96782

Project Name(\*): EKAHI ESTATES
Address: 4910 Nunu Road, Kapaa, Hawaii 96746

Registration No. 5621

Effective date: April 19, 2005
Expiration date: May 19, 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, in any, of the project or of purchasing an apartment in the project.

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

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

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

Type of Report:

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

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

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

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

(\* ) Exactly as named in the Declaration

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

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

- Required and attached to this report (attached hereto as Exhibit G)                       Not required - Disclosures covered in this report.

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

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

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

**SPECIAL NOTICE:**

This is a condominium project, not a subdivision. There are County restrictions on the number of dwelling units, or other structures, which may be built upon the property. Therefore, unless the purchaser is purchasing an existing dwelling, there is no assurance that the purchaser will be able to build a dwelling unit on the property. There also is no assurance that the purchaser will be able to convert an existing non-residential structure to residential use. The purchaser should consult with the appropriate County agencies to determine whether the purchaser may build a dwelling unit, or any other type of structure.

1. There are presently 10 RESIDENTIAL STRUCTURES on the project identified as Units 1, 2, 3, 4, 5, 6, 7A and 7B, 8, and 9.
2. Issuance of an effective date for this Public Report does not constitute an approval of the project by the Real Estate Commission, or any other governmental agency, nor does it imply that all County codes, ordinances and subdivision requirements have been complied with.
3. This project does not involve the sale of individual subdivided lots. The land area beneath and immediately adjacent to each unit, as shown on the Condominium Map, is designated as a limited common element for that unit and does not represent a legally subdivided lot. The dotted or dash lines on the Condominium Map generally represent the location of the limited common element or easements assigned to each unit.
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 owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

THIS 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: Ocean Resource Innovations LLC Name\* Phone: (808) 455-5995 (Business) 96-1367 Waihona Street Business Address Pearl City, HI 96782

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):

William Orihuela, Member

Real Estate Broker\*: Mark K. Tanaka Phone: (808) 245-1651 (Business) Kauai Realty, Inc. Name 2970 Kress Street Business Address Lihue, Hawaii 96766

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

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

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

Attorney for Developer: Glen T. Hale Phone: 808-245-4100 (Business) Hale & Goldberg LLP Name 2970 Kele Street Suite 210 Business Address Lihue, Hawaii 96766-1803

\*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. 2004-224860

Book \_\_\_\_\_ Page \_\_\_\_\_

Filed - Land Court:

Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment to Declaration of Condominium Property Regime of Ekahi Estates dated February 3, 2005, and recorded as Document No. 2005-022807; and Second Amendment to Declaration of Condominium Property Regime of Ekahi Estates dated March 10, 2005, and recorded as Document No. 2005-051924.

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:

Proposed

Recorded - Bureau of Conveyances Condo Map No. 3880

Filed - Land Court Condo Map No. \_\_\_\_\_

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

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

The Bylaws for this condominium are:

Proposed

Recorded - Bureau of Conveyances:

Document No. 2004-224861

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]: First Amendment to the Bylaws of Ekahi Estates dated January 6, 2005, and recorded as Document No. 2005-022808.

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  
(a summary is attached as Exhibit "I")

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

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

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

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

2. **Developer**

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

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

The Developer reserves the right to unilaterally amend the Condominium Map, Declaration, Bylaws and/or House Rules to reflect any changes to Units/Apartments, common elements and/or easements that affect any Unit the developer has not sold. Developer reserves the right to submit an Amended Engineer's Certification for any amended map or amended floor plans or elevations. The Developer reserves the right to unilaterally amend the Declaration, Bylaws, and/or House Rules to affect any changes necessary to complete the sale of any Unit it owns.

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 Sub-leasehold: 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 explanation 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 owners/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:

**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: 4910 Nunu Road Tax Map Key: (TMK): (4) 4-6-015:013  
Kapaa, Hawaii 96746

[ x ] Address [ ] TMK is expected to change because each future residence will receive  
its own address.

Land Area: 68,844 [ x ] square feet [ ] acre(s) Zoning: Residential (R-6)

Fee Owner: Ocean Resource Innovations LLC  
 Name  
96-1367 Waihona Street  
 Address  
Pearl City, HI 96782

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: Ten (10) Floors Per Building One (1)  
 Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete       Hollow Tile       Wood  
 Other \_\_\_\_\_

4. Permitted Uses by Zoning:

	No. of Apts.	<u>Use Permitted by Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>(10 dwellings – 9 Units)</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other:	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

Yes       No

5. Special Use Restrictions:

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

- Household pets may be kept consistent with any applicable law or restrictive covenants applicable to the project so long as they do not become a nuisance to the other owners.
- Number of Occupants: \_\_\_\_\_
- Protective Covenants, Conditions and Restrictions, a summary of which is attached hereto as Exhibit "I".
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: -0- Stairways: -0- Trash Chutes: -0-

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<b>(See page 11a attached hereto)</b>					
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total number of Apartments: ten (10)\*

**\*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:** Per Article II of the Declaration of Condominium Property Regime, the boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed a part of the apartment, the same being deemed common elements.

**Permitted Alterations to Apartments:** Permitted alterations to apartments are as allowed by County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime will be required to disclose actual improvements as a matter of public record.

**Apartments Designated for Owner-Occupants Only:** Fifty percent (50%) of residential apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by Section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment \_\_\_\_). Developer has not elected to provide the information in a published announcement or advertisement. \*(See Exhibit K attached hereto.)

(Continued from page 11, item 6)

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
1	1	2/1	793	480	carport (2 stalls)
2	1	3/1	771	63 280	porch carport
3	1	2/1	694	198	carport
4	1	2/1	600	378	carport
5	1	2/1	694	198	carport
6	1	2/1	484	340 154 264	carport porch patio
7A	1	1/1	728	255	carport
7B	1	2/1	728	255	carport
8	1	2/1	600	280	carport
9	1	3/2	1,571	456 98	carport porch

7. Parking Stalls:

Total Parking Stalls: 10

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		TOTAL
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>1*</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>10</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>
*Although not identified on the CPR map.							
Other: Units 1 through 10 have ample space for at least one parking stall within their limited common element lan areas.							
Total Covered & Open:	<u>10</u>	<u>      </u>	<u>-0-</u>	<u>      </u>	<u>-0-</u>	<u>      </u>	<u>10</u>

Each apartment will have the exclusive use of at least 1\* parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

- Commercial parking garage permitted in condominium project.
- Exhibit        contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool                       Storage Area                       Recreation Area
- Laundry Area                       Tennis court                       Trash Chute/Enclosure(s)
- Other: \_\_\_\_\_

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):

Based on the Architect's Condition Report dated January 12, 2005 prepared by Ian K. Costa, Licensed Professional Architect, No. 6423, the Developer states that the structural components, mechanical and electrical installations of Units 1 through 9 appear to be in satisfactory condition for the stated age thereof (Unit 1 = 51 yrs., Unit 2 = 63 yrs., Unit 3 = 50 yrs., Unit 4 = 38 yrs., Unit 5 = 50 yrs., Unit 6 = 38 yrs., Unit 7A = 58 yrs., Unit 7B = 64 yrs., Unit 8 = 38 yrs., and Unit 9 = 62 yrs.) and appear to be in satisfactory condition for their age. The structure and related systems and components have an expected useful life in excess as follows: Unit 1 = 5 yrs., Unit 2 = 3 yrs., Unit 3 = 5 yrs., Unit 4 = 10 yrs., Unit 5 = 5 yrs., Unit 6 = 10 yrs., Unit 7A = 4, Unit 7B = 3 yrs., Unit 8 = 10 yrs., and Unit 9 = 3 yrs.

11. Conformance to Present Zoning Code

- a.          No variances to zoning code have been granted.  
                Variance(s) to zoning code was/were granted as follows:

b.     Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawfully at one time but which does not now conform to present zoning requirements:

	Conforming	Non-Conforming	Illegal
Uses	_____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.

**\*One structure is a legal non-conforming structure. Please refer to page 20, paragraph 6 of this Public Report.**

D. Common Elements, Limited Common Elements, Common Interests:

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

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

    as follows:

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 E.

as follows:

3. Common Interests: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interests." 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 C.

as follows:

- 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 on or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated March 16, 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 Prior to Conveyance</u>
Mortgage (2)	A lender has priority over a Buyer's rights under a Sales Contract and has a right to terminate a sales contract upon foreclosure of its mortgage before an apartment sale is closed. If foreclosed, Buyer's deposit shall be refunded (less any escrow cancellation fees) and the sales contract between Seller and Buyer shall be cancelled.
Financing Statement (2)	A lender has priority over a Buyer's rights under a Sales Contract and has a right to terminate a sales contract upon foreclosure of its mortgage before an apartment sale is closed. If foreclosed, Buyer's deposit shall be refunded (less any escrow cancellation fees) and the sales contract between Seller and Buyer shall be cancelled.

F. Construction Warranties:

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

1. Building and Other Improvements: None

2. Appliances: None

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

Apartment 1 was completed in 1953.

Apartment 2 was completed in 1941.

Apartment 3 was completed in 1954.

Apartment 4 was completed in 1966.

Apartment 5 was completed in 1954.

Apartment 6 was completed in 1966.

Apartment 7A was completed in 1946.

Apartment 7B was completed in 1940.

Apartment 8 was completed in 1966.

Apartment 9 was completed in 1942.

H. **Project Phases:**

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

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

**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 affiliated 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 H 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 \_\_\_\_\_

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   B   contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated   February 9, 2005  .  
Exhibit   D   contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all the 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 given 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 Two Mortgages; Assignment of Sales Contracts and Sales Proceeds; two Financing Statements; and Absolute Assignment of Sales Contracts, Escrow Deposits, Escrow Agreements and Net Sales Proceeds

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:

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. 5621 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

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

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

Residential improvements are located on Units 1 through 9 of the project. These can be replaced by or remodeled as allowed by law and project documents. The prospective purchaser shall have the right to undertake such work at purchaser's expense. The purchaser shall also, in such event, file the "as-built" certificate within thirty days of completion of the residence in conformance with Section 514A-12, Hawaii Revised Statutes, and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the residence. The County of Kauai Planning Department, in order to process the necessary permits for the construction of any other structure, requires authorization from at least 75% of the legal and equitable ownership of the entire project, consistent with the Declaration and the Bylaws ("condominium documents").

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

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

As stated in the First Amendment to the Declaration, the owners of Units 7, 8, and 9 are responsible to pay one third each of the common expenses set forth in Section XIII of the Declaration that relate to the common element access driveway as shown on the Amended Condominium Map. No other unit owner shall be responsible to pay for the maintenance, repair and upkeep of the common element access driveway unless they desire to use the driveway and they agree, in writing, to pay a share of the common expenses equal to the number of units which use the common element divided into one hundred.

As further stated in the First Amendment to the Declaration, the total number of residences on this nine-unit CPR project is ten. Unit 7 of this project includes two residences. Kauai County Zoning Ordinances currently allow only nine residences on the project. If a non-conforming structure is destroyed or damaged it may only be reconstructed pursuant to the provisions set forth in the Kauai County Zoning Ordinances, Sec. 8-23.1 Non-Conforming Structures and Uses. A copy of Sec. 8-23.1 is attached hereto as Exhibit L. Any residence located on Units 1 through 6 and Units 8 and 9 that is destroyed may be rebuilt pursuant to applicable Kauai County laws, ordinances and codes. If one or both of the residences located on Unit 7 is destroyed or damaged, then the Unit owner may only rebuild one of the residences.

Annual registration of the association of apartment owners of projects having six or more apartment units with the Real Estate Commission. Registration includes proof of fidelity bond coverage (for all officers, directors, employees and managing agents who handle the association's funds), registration fee, names and positions of those persons who handle the association's funds, name of the managing agent, if applicable, postal address of the condominium, and the name, business address and phone number of the designated contact person for the association. Associations which fail to comply shall not have standing to maintain any action or proceeding in the courts of State of Hawaii until compliance is effected. However, this shall not impair the validity of any contract or act of the association nor prevent the association from defending any action or proceeding in any court in the State. [514A-95.1]

C. Additional Information Not Covered Above: (continued)

Hazardous Materials

The Developer neither prepared nor commissioned a Phase 1 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.

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 intelligence 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 any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

- 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.

OCEAN RESOURCE INNOVATIONS LLC

Name of Developer

By: William Orihuela  
Duly Authorized Signatory\*

01-27-05  
Date

WILLIAM ORIHUELA, Member  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

**\*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 B

### SUMMARY OF SALES CONTRACT

The EKAHI ESTATES Sales Contract and Receipt (the "contract"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. The method of payment of the purchase price to the escrow agent, subject to other terms.
2. The closing date for the purchase.
3. Whether, at the time of execution of the contract, an effective date for a final public report has been issued.
4. The terms and conditions of the sale which include, among other provisions, the following:
  - (a) That Purchaser will receive a copy of the final public report for the project.
  - (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement, and Purchaser is subject to all of the terms of the Escrow Agreement.
  - (c) Seller has a right to extend the closing date by 31 days or by 31 days after the public report effective date is issued, whichever is later.
  - (d) After issuance of the Final Public Report effective date and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Purchaser shall not have the right to rescind the contract.
  - (e) Purchaser has received a copy of the Escrow Agreement.
  - (f) If Purchaser defaults, Seller may cancel the contract or bring legal action against Purchaser to force sale, obtain money damages, or retain Purchaser's deposit money held in escrow.
  - (g) The unit the Purchaser is purchasing is shown on the condominium map attached as Exhibit A to the Sales Contract and Receipt; Purchaser will have the right to cancel if the Unit is different from that shown on said Exhibit A.

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

**SPECIAL NOTICE:**

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

**END OF EXHIBIT B**

**EXHIBIT C**

**SCHEDULE OF APARTMENTS AND COMMON INTERESTS**

Quantity	Unit No.	Area of Limited Common Element* (Sq. Ft.)	No. of Br./Bath	Appx. Net Living Area (Sq. Ft.)	Appx. Other Area (Sq. Ft.)	% of Common Int.
1	1	6,588	2/1	793	480 – carport (2 stalls)	11%
1	2	7,054	3/1	771	63 – porch 280 - carport	11%
1	3	7,466	2/1	694		11%
1	4	5,362	2/1	600	378 – carport	11%
1	5	4,354	2/1	694	198 - carport	11%
1	6	5,104	2/1	484	340 – carport 154 – porch 264 - patio	11%
2	7A	14,667	1/1	926	187 – carport	12%
	7B		2/1	728	255 - carport	
1	8	4,680	2/1	600	280 – carport	11%
1	9	10,326	3/2	1,571	456 - carport 98 - porch	11%

Pursuant to Section 16-107-5, Hawaii Administrative Rules, reference is hereby made to the method by which common interest has been computed. There are nine units, each of which will burden the common elements as set forth above. Therefore, the assessment of undivided interest both for common expense and for voting is 11% for each unit except Unit 7A/7B which is 12%.

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use the unit, alter or add to it in any manner deemed desirable, so long as it is permitted by law and the Declaration of Protective Covenants and House Rules, if any. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of Condominium Property Regime together with their respective signatures.

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

**END OF EXHIBIT C**

## EXHIBIT D

### SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC., a Hawaii corporation ("Escrow"), and OCEAN RESOURCE INNOVATIONS LLC ("Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.
2. Escrow will receive payments under the sales contract and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.
3. Escrow will release from the trust fund and disburse Buyer's funds at closing, unless: (a) Buyer has elected within seven days of signing the sales contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the sales contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.
4. Escrow will return deposited sums to the Buyer without interest if Seller and Buyer give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged Buyer. Thereafter, in the event of a cancellation as a matter of agreement or right, Buyer's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.
5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.
6. As Escrow's compensation for its performance under this Agreement, Escrow will receive its schedule rate for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. The cost of title insurance will be an additional amount, based upon schedule rate.

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

**SPECIAL NOTICE:**

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

**END OF EXHIBIT D**

## **EXHIBIT E**

### COMMON ELEMENTS OF THE PROJECT

The common elements of the project are:

- (a) The land in fee simple;
- (b) A 3,243 square foot common element for access and utility purposes;
- (c) All commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone; and
- (d) Any and all other future elements and facilities in common use or necessary to the existence, maintenance and safety of the Project.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium unit(s) which are filed of record.

### LIMITED COMMON ELEMENTS OF THE PROJECT

Certain parts of the common elements, referred to as the "limited common elements," have been designated and set aside for the exclusive use of one or more units, and such unit(s) have appurtenant exclusive easements for the use of such limited common elements. The limited common elements so set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which Units 1 through 9 are located, shown and designated on the Condominium Map and the table below.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
1	6,588 square feet
2	7,054 square feet
3	7,466 square feet
4	5,362 square feet
5	4,354 square feet
6	5,104 square feet
7A and 7B	14,667 square feet
8	4,680 square feet
9	10,326 square feet

Except for liability created by negligence or intentional acts, all costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant. Utilities will be connected at the expense of individual unit owners.

\*Note: Land areas referenced herein are not legally subdivided lots. Also, See Note at bottom of Exhibit C.

**END OF EXHIBIT E**

**EXHIBIT F**

**ENCUMBRANCES AGAINST TITLE**

1. Real Property Taxes. Check with the County of Kauai, Department of Finance, Real Property Tax Division, for detailed information.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

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

INSTRUMENT: LAND PATENT GRANT NO. 12,023

DATED: December 12, 1950

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

INSTRUMENT: LAND PATENT GRANT NO. S-14,325

DATED: June 1, 1965

5. Any unrecorded leases and matters arising from or affecting the same.

6. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

MORTGAGOR: OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company

MORTGAGEE: BANK OF HAWAII, a Hawaii corporation

DATED: August 4, 2004

RECORDED: Document No. 2004-162525

AMOUNT: \$1,250,000.00

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

INSTRUMENT: ASSIGNMENT OF SALES CONTRACTS AND SALES PROCEEDS

DATED: August 4, 2004

RECORDED: Document No. 2004-162526

PARTIES: OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company, and BANK OF HAWAII, a Hawaii corporation

8. FINANCING STATEMENT

DEBTOR: OCEAN RESOURCE INNOVATIONS LLC

SECURED

PARTY: BANK OF HAWAII

RECORDED: Document No. 2004-162527

RECORDED ON: August 9, 2004

9. 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 "EKAHI ESTATES" CONDOMINIUM PROJECT

DATED: November 4, 2004

RECORDED: Document No. 2004-224860

MAP: 3880 and any amendments thereto

Said Declaration was amended by instrument dated February 3, 2005, recorded as Document No. 2005-022807 and dated March 10, 2005, recorded as Document No. 2005-051924.

10. 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: November 4, 2004

RECORDED: Document No. 2004-224861

Said By-Laws were amended by instrument dated January 6, 2005, recorded as Document No. 2005-022808.

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

**INSTRUMENT:** DECLARATION OF PROTECTIVE COVENANTS AND HOUSE RULES OF EKAHI ESTATES

**DATED:** November 4, 2004  
**RECORDED:** Document No. 2004-224862

12. **MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

**MORTGAGOR:** OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company, Mortgagor; AKAHI SERVICES, INC., a Hawaii corporation, and OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company, Borrower; and WILLIAM RALPH ORIHUELA, individually and as Trustee of The W. R. Orihuela Trust dated April 20, 2000, as Guarantor

**MORTGAGEE:** FIRST HAWAIIAN BANK, a Hawaii corporation

**DATED:** January 20, 2005  
**RECORDED:** Document No. 2005-017401  
**AMOUNT:** \$708,000.00

13. **FINANCING STATEMENT**

**DEBTOR:** OCEAN RESOURCE INNOVATIONS, LLC

**SECURED PARTY:** FIRST HAWAIIAN BANK

**RECORDED:** Document No. 2005-017402  
**RECORDED ON:** January 28, 2005

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

**INSTRUMENT:** ABSOLUTE ASSIGNMENT OF SALES CONTRACTS, ESCROW

DEPOSITS, ESCROW AGREEMENTS AND NET SALES  
PROCEEDS

DATED: January 20, 2005  
RECORDED: Document No. 2005-017403  
PARTIES: OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company, Assignor; AKAHI SERVICES, INC., a Hawaii corporation, and OCEAN RESOURCE INNOVATIONS, LLC, a Hawaii limited liability company, Borrower; WILLIAM RALPH ORIHUELA, individually and as Trustee of The W. R. Orihuela Trust dated April 20, 2002, Guarantor; and FIRST HAWAIIAN BANK, a Hawaii corporation, Assignee

15. The Final Public Report for the Ekahi Estates condominium project is not filed in the Office of the Department of Commerce and Consumer Affairs.
16. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described in Schedule C herein.

**END OF EXHIBIT F**

## EXHIBIT G

### DISCLOSURE ABSTRACT FOR EKAHI ESTATES

Pursuant to Hawaii Revised Statutes, Section 514(A)-61, the Developer of EKAHI ESTATES makes the following disclosures:

1. The Developer of the project is OCEAN RESOURCE INNOVATIONS LLC, 96-1367 Waihona Street, Pearl City, Hawaii 96782.
2. See Exhibit H to the Final Public Report for the projected annual maintenance fees. The Developer hereby certifies that the estimations have been based on generally accepted accounting principles.
3. There are no warranties against defects of material and workmanship in individual apartments, common elements or exclusive use areas, and the purchaser buys his/her unit in an "as is" condition.
4. All of the apartments of the project are to be used for residential purposes only. No units shall be used for hotel or timeshare purposes. There will be no commercial use except those activities permitted by County Ordinance.
5. The real estate broker for the Project is: Mark Tanaka, Kauai Realty, Inc., whose address is 2970 Kress Street, Lihue, Hawaii 96766, and whose telephone is 808-245-1651.
6. The Developer has not conducted a reserve study in accordance with 514A-83.6, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. There are no depreciable common elements in the Project.
7. This project includes existing structures being converted to condominium ownership.
8. As stated in the First Amendment to the Declaration, the owners of Units 7, 8, and 9 are responsible to pay one third each of the common expenses set forth above that relate to the common element access driveway as shown on the Amended Condominium Map. No other unit owner shall be responsible to pay for the maintenance, repair and upkeep of the common element access driveway unless they desire to use the driveway and they agree, in writing, to pay a share of the common expenses equal to the number of units which use the common element divided into one hundred.

9. As further stated in the First Amendment to the Declaration, the total number of residences on this nine-unit CPR project is ten. Unit 7 of this project includes two residences. Kauai County Zoning Ordinances currently allow only nine residences on the project. If a non-conforming structure is destroyed or damaged it may only be reconstructed pursuant to the provisions set forth in the Kauai County Zoning Ordinances, Sec. 8-23.1 Non-Conforming Structures and Uses. A copy of Sec. 8-23.1 is attached hereto as Exhibit B. Any residence located on Units 1 through 6 and Units 8 and 9 that is destroyed may be rebuilt pursuant to applicable Kauai County laws, ordinances and codes. If one or both of the residences located on Unit 7 is destroyed or damaged, then the Unit owner may only rebuild one of the residences.

In witness whereof, the Developer has executed this Disclosure Abstract this 27th day of January, 2005.

OCEAN RESOURCE INNOVATIONS LLC

By:   
WILLIAM ORIHUELA  
Its Member

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**RECEIPT**

The undersigned has received a copy of the foregoing Disclosure Abstract with Exhibit H this \_\_\_ day of \_\_\_\_\_, 200\_\_.

Purchaser(s):

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**END OF EXHIBIT G**

## EXHIBIT H

### 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>	
UNIT 1	\$33.00	\$396.00
UNIT 2	\$33.00	\$396.00
UNIT 3	\$33.00	\$396.00
UNIT 4	\$33.00	\$396.00
UNIT 5	\$33.00	\$396.00
UNIT 6	\$33.00	\$396.00
UNIT 7A and 7B	\$36.00	\$432.00
UNIT 8	\$33.00	\$396.00
UNIT 9	\$33.00	\$396.00

***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:**

	<u>Monthly Fee x 12 months = Yearly Total</u>	
	\$	\$
Utilities and Services		
Air Conditioning		
Electricity		
<input type="checkbox"/> common elements only		
<input type="checkbox"/> common elements and apartments		
Elevator		
Gas		
<input type="checkbox"/> common elements only		
<input type="checkbox"/> common elements and apartments		
Refuse Collection		
Telephone		
Water and Sewer		
Maintenance, Repairs and Supplies		
Building		
Grounds	\$100.00	\$1,200.00
Management		
Management Fee		
Payroll and Payroll Taxes		
Office Expenses		
Insurance	\$200.00	\$2,400.00
Reserves(*)		
Taxes and Government Assessments		
Audit Fees		
Other	_____	_____
TOTAL:	\$300.00	\$3,600.00

I, WILLIAM ORIHUELA, as a Member of OCEAN RESOURCE INNOVATIONS LLC, a Hawaii Limited Liability Company, Developer for the EKAHI ESTATES condominium project, hereby certifies that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

OCEAN RESOURCE INNOVATIONS LLC

By: William Orihuela  
WILLIAM ORIHUELA  
Its Member

01-27-05  
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 Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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

**END OF EXHIBIT H**

## EXHIBIT I

### SUMMARY OF PROTECTIVE COVENANTS AND HOUSE RULES FOR EKAHI ESTATES

This is a summary of the recorded Declaration of Protective Covenants and House Rules ("House Rules") for the condominium Project. This is not meant to completely recite the actual provisions of the House Rules, nor to cover every issue in which a purchaser might have interest. The prospective purchaser is urged to obtain a full copy of the House Rules from the condominium Developer prior to entering into an agreement to purchase a unit in this Project.

**Building Permits:** Any owner desiring to construct improvements on a unit will have to comply with County of Kauai building and zoning codes.

**Water and Utilities:** Each unit owner will be required to connect water, electricity and telephone to his/her improvements at his/her own cost and expense.

**Wastewater Treatment:** Each unit will be required to have its own state-approved wastewater treatment system located within its own limited common element area.

**Construction:** There are limits on materials and types of construction.

**Pets/Noise in General:** There are restrictions on types and numbers of animals as well as the levels of noise and dust permissible within the Project.

**Common Area Land:** The Association shall determine and control the common area land, if any.

**Noxious Activities:** There are restrictions regarding the spraying of chemicals and pesticides.

**Common Element Expenses and Enforcement:** The Association shall provide for common area expenses necessary to maintain the project in acceptable condition.

**Repeal or Modification:** These Covenants may be modified by an affirmative vote of the holders of 75% of the common interests in the Project.

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

**END OF EXHIBIT I**

EXHIBIT J

MEMORANDUM FROM THE COUNTY OF KAUAI PLANNING DEPARTMENT

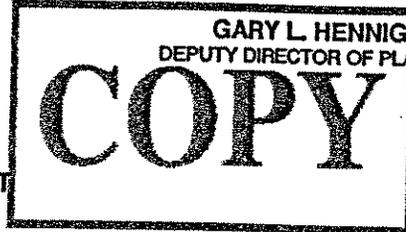
BRYAN J. BAPTISTE  
MAYOR

GARY K. HEU  
ADMINISTRATIVE ASSISTANT



IAN K. COSTA  
DIRECTOR OF PLANNING

GARY L. HENNIGH  
DEPUTY DIRECTOR OF PLANNING



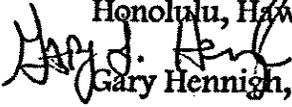
COUNTY OF KAUAI  
PLANNING DEPARTMENT

Kapule Building  
4444 Rice Street, Suite A473  
Lihu'e, Hawai'i, 96766-1326

TELEPHONE: 808.241.6577  
FAX: 808.241.6599

DATE: March 9, 2005

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

FROM:   
Gary Hennigh, Deputy Director of Planning

SUBJECT: Certification of Inspection of Existing Buildings

Project Name: EKAHI ESTATES  
Condominium Project (230)  
Tax Map Key: (4) 4-6-015: 013

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

1. The developer has contracted architect Ian Costa to certify that the buildings on the proposed project referred to as Ekahi Estates Condominium Unit 1 through Unit 9 inclusive are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the Department.

Senior Condominium Specialist  
Ekahi Estates Condominium  
TMK: (4) 4-6-015: 013  
March 9, 2005  
Page two

2. This parcel contains one (1) nonconforming structure as a result of the adoption of the Comprehensive Zoning Ordinance (CZO). Based on the current CZO, this parcel qualifies for nine (9) single family dwelling structures.
3. There are no variances approved for the subject property.
4. There are no notices of violation of County building or zoning codes outstanding according to our records.
5. WAIVER  
The foregoing certification is not a warranty to any compliance with applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under subsection 514 A-40, (b), and (1), Hawaii Revised Statutes.

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

cc: Glen Hale, Attorney at Law  
William Orihuela, Project Developer

END OF EXHIBIT J

## EXHIBIT K

### NOTICE TO OWNER-OCCUPANTS

#### PROJECT NAME: EKAHI ESTATES REGISTRATION NO. 5621

NOTICE is hereby given by the developer/owner to Owner-Occupants, pursuant to the provisions of Section 514A-102 of the Hawaii Revised Statutes, as follows:

1. The EKAHI ESTATES CPR project is located at 4910 Nunu Road, Kapaa, Kauai, Hawaii, including 10 residential structures identified as Units 1, 2, 3, 4, 5, 6, 7A, and 7B, 8 and 9.
  - a. The minimum price of the units are as follows:

Unit 1	\$340,000.00
Unit 1	\$340,000.00
Unit 3	\$340,000.00
Unit 4	\$340,000.00
Unit 5	\$340,000.00
Unit 6	\$340,000.00
Unit 7A and 7B	\$340,000.00 each
Unit 8	\$340,000.00
Unit 9	\$340,000.00
  - b. Each unit of the project contains the following approximate square foot living space:

Unit 1	793 sq. ft.
Unit 1	771 sq. ft.
Unit 3	694 sq. ft.
Unit 4	600 sq. ft.
Unit 5	694 sq. ft.
Unit 6	484 sq. ft.
Unit 7A and 7B	926 sq. ft. and 728 sq. ft. respectively
Unit 8	600 sq. ft.
Unit 9	1,571 sq. ft.
  - c. The residential units are to be sold in fee simple.
2. For a thirty-day period following the initial date of sale of the condominium project, at least fifty per cent of the residential apartments being marketed shall be offered only to prospective owner-occupants who will use the residential units as their principal residences for a period of not less than three hundred sixty-five (365) consecutive days.
3. The Units of the project shall be offered to prospective purchasers chronologically in the order in which the purchasers submit to the developer a completed owner-occupant affidavit, an executed sales contract, and an earnest money deposit in a reasonable amount designated by the developer.
4. The name, telephone number, and address of the real estate broker designated by the developer that an interested individual may contact to secure an owner-occupant affidavit, public report, and any other information concerning the project is as follows:

Name: Mark Tanaka  
Address: Kauai Realty, Inc.  
2970 Kress Street  
Lihue, Hawaii 96766  
Telephone: (808) 245-1651

## EXHIBIT K

EXHIBIT L

KAUAI COUNTY ZONING ORDINANCE  
REGARDING NON-CONFORMING STRUCTURES AND USES

8-23.1 -- 8-23.2

ARTICLE 23. NON-CONFORMING STRUCTURES AND USES

Sec. 8-23.1 Non-Conforming Buildings And Structures.

(a) Buildings and structures that do not conform to the regulations established by this Chapter and which lawfully existed prior to or on September 1, 1972 may be maintained, transferred and sold, provided that the Planning Commission may, after hearing, order the termination of a non-conforming use that creates substantial danger to public health or safety.

(b) Ordinary maintenance and repairs may be made to any non-conforming building or structure, provided that no structural alterations are made, the building or structure is not enlarged, and cost of work does not exceed twenty per cent (20%) of the replacement cost of the building or structure in any one (1) year.

(c) A non-conforming building or structure that is damaged or destroyed may not be reconstructed other than in accordance with the provisions of this Chapter unless the cost of reconstruction does not exceed fifty per cent (50%) of the replacement cost of the building or structure prior to the damage having occurred, exclusive of foundations. Where reconstruction is permissible, reconstruction shall be completed within one (1) year from the date of damage or destruction and the building as reconstructed shall have no greater floor area than it had prior to being damaged. Where reconstruction is prohibited, the remaining portion of the non-conforming building or structure shall be removed or brought into conformity with the requirements of this Chapter. The Department of Public Works shall determine the extent of damage to determine whether the building may be restored.

(d) Any business building located on a lot of less than six thousand (6,000) square feet in a business district may be rebuilt to its existing size subject to the condition that the front setback line shall be enforced and the building size decreased to provide for the setback. (Ord. No. 164, August 17, 1972; Sec. 8-22.1, R.C.O. 1976)

Sec. 8-23.2 Non-Conforming Uses.

(a) A non-conforming use of land, buildings, or other structures may continue to the extent that the use existed on the effective date of this Chapter (September 1, 1972) or any amendment hereto, as provided in this Section 8-23.2, provided that the Planning Commission may, after hearing, order the termination of a non-conforming use that creates substantial danger to public health or safety.

(b) If any non-conforming uses ceases for any reason for a continuous period of twelve (12) calendar months or for one (1) season if the use be seasonal, then the use shall not be resumed and any use of the land or building

thereafter shall be in full conformity with the provisions of this Chapter.

(c) If the non-conforming use is carried on in a non-conforming building or structure and the portion of the building or structure within which non-conforming use is conducted is destroyed or damaged, the use may be resumed if restoration or reconstruction, as permitted by this Article, is completed within one (1) year from the date of the damage or destruction. If the building or structure may not be restored or reconstructed under the provisions of this Chapter, or if the building or structure was conforming, the non-conforming use may not be resumed and any use of the land or building thereafter shall be in full conformity with the provisions of this Chapter.

(d) Any building lawfully in existence and vacant prior to or on September 1, 1972 may within six (6) months thereafter, be occupied by the use for which it was manifestly designed or arranged. (Ord. No. 164, August 17, 1972; Sec. 8-22.2, R.C.O. 1976)

**Sec. 8-23.3 Uses, Structures, And Lots For Which Permits Were Issued Prior To Adoption Of This Ordinance.**

(a) Variances. Any building or structure authorized under a valid variance still in force issued prior to September 1, 1972 may be constructed if substantial construction activities related to the building or structure carried out on the site have been commenced or are commenced within twelve (12) months after September 1, 1972.

(b) Lots. Lots that do not conform to the requirements of this Chapter may be treated as lots existing on September 1, 1972 if they are created by a subdivision of land:

(1) for which a final subdivision map was approved prior to September 1, 1972 if the map has been, or is recorded within one (1) year after September 1, 1972 or

(2) for which a preliminary subdivision map was approved prior to September 1, 1972 and a final map of the subdivision is approved and recorded within one (1) year after September 1, 1972. (Ord. No. 164, August 17, 1972; Ord. No. 173, May 31, 1973; Sec. 8-22.3, R.C.O. 1976)

**ARTICLE 24. ENFORCEMENT, LEGAL PROCEDURES AND PENALTIES**

**Sec. 8-24.1 Enforcement, Legal Procedures And Penalties.**

(a) All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for