

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Keith A. Cabral and Yolanda L. Portugal-Cabral
Address P.O. Box 586, Lawai, HI 96765

Project Name (\*): KOULA
Address: 3844 Koula Road, Hanapepe, HI 96716

Registration No. 5641

Effective date: August 15, 2005
Expiration date: September 15, 2006

Preparation of this Report:

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

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

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

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

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

Type of Report:

- PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report.
FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
SUPPLEMENTARY: (pink) This report updates information contained in the:
And [ ] Supersedes all prior public reports.

(\*) 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 an attached to this report

Not Required-Disclosures covered in this report.

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This is a **CONDOMINIUM PROJECT**, not a subdivision. It does not involve the sale of individual subdivided lots. The land beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common elements land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

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

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

3. **THIS PUBLIC REPORT WAS DONE BY THE DEVELOPER AND NOT AN ATTORNEY.**  
**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.**

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Keith A. Cabral & Yolanda L. Portugal-Cabral Phone: (808) 245-1823  
Name\* (Business)  
P.O. Box 586  
Business Address  
Lawai, HI 96765

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\*: None selected, see page 20 Phone: \_\_\_\_\_  
Name (Business)  
Business Address

Escrow Security Title Corp. Phone: (808) 245-6975  
Name (Business)  
4370 Kukui Grove, Ste. 209  
Business Address  
Lihue, HI 96766

General Contractor\*: Agcaoli & Son Partners Phone: (808) 245-6862  
Name (Business)  
2966 Hoolako  
Business Address  
Lihue, HI 96766

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

Attorney for Developer: None, This report prepared Phone: \_\_\_\_\_  
Name (Business)  
by the Developer, pro se  
Business Address

\* 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>2005-019397</u> |
|                                     |            |                        | Book _____ Page _____           |
| <input type="checkbox"/>            | Filed -    | Land Court:            | Document No. _____              |

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

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

The Condominium Map for this condominium project is:

|                                     |            |   |  |
|-------------------------------------|------------|---|--|
| <input type="checkbox"/>            | Proposed   |   |  |
| <input checked="" type="checkbox"/> | Recorded - | Bureau of Conveyances Condo Map No. <u>3931</u> |  |
| <input type="checkbox"/>            | Filed -    | Land Court Condo Map No. _____                  |  |

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

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

The Bylaws for this condominium are:

|                                     |            |                        |                                 |
|-------------------------------------|------------|------------------------|---------------------------------|
| <input type="checkbox"/>            | Proposed   |                        |                                 |
| <input checked="" type="checkbox"/> | Recorded - | Bureau of Conveyances: | Document No. <u>2005-019398</u> |
|                                     |            |                        | Book _____ Page _____           |
| <input type="checkbox"/>            | Filed -    | Land Court:            | Document No. _____              |

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

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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

Developer has reserved the right to alter the units in the project under paragraph 16.0 and to amend the Declaration under 17.0, including changes to the condominium map and the filing of "as-built" plans. The Developer may amend the Bylaws under Article IV, section 1 and adopt Building Rules under Article V, Section 2 of the Bylaws.



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: 3844 Koula Road Tax Map Key (TMK): (4)1-9-05:19  
Hanapepe, HI 96716

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

Land Area: 11,250  square feet  acre(s) Zoning: R-10

Fee Owner: Keith A. Cabral & Yolanda L. Portugal-Cabral  
 Name  
P.O. Box 586  
 Address  
Lawai, HI 96765

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:

|  | No. of<br>Apts. | <u>Use Permitted By Zoning</u>          |                             |
|--|-----------------|---|-----------------------------|
| <input checked="" type="checkbox"/> Residential  | <u>1</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 checked="" type="checkbox"/> Other : Shed | <u>1</u>        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

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

5. Special Use Restrictions:

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

Pets: \_\_\_\_\_

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

Other: \_\_\_\_\_

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: None                      Stairways: None                      Trash Chutes: None

| Apt. Type | Quantity | BR/Bath | Net Living Area (sf)* | Net Other Area (sf) | (Identify) |
|-----------|----------|---------|-----------------------|---------------------|------------|
| Unit 1    | 1        | 3/1     | 1,112 sf              | 0                   |            |
| Unit 2    | 1        | 0       | 0                     | 16 sf               | Shed       |
| _____     | _____    | _____   | _____                 | _____               | _____      |
| _____     | _____    | _____   | _____                 | _____               | _____      |

Total Number of Apartments: 2

\* Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment: The exterior surfaces of the structure and the description of the limited common elements are set forth in the Condominium Map.

Permitted Alterations to Apartments: Apartments may be altered in accordance with the Declaration, the Bylaws, the Building Code, Zoning, and all relevant County of Kauai and State of Hawaii ordinances and regulations.

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

7. Parking Stalls:

|                             |                |             |                |             |                |
|-----------------------------|----------------|-------------|----------------|-------------|----------------|
| Total Parking Stalls:       | <u>4</u>       |             |                |             |                |
|                             | <u>Regular</u> |             | <u>Compact</u> |             | <u>Tandem</u>  |
|                             | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> | <u>Covered</u> |
| Assigned<br>(for each unit) | <u>2</u>       |             | <u>0</u>       |             | <u>0</u>       |
| Guest                       |                |             |                |             |                |
| Unassigned                  |                |             |                |             |                |
| Extra for Purchase          |                |             |                |             |                |
| Other: _____                |                |             |                |             |                |
| Total Covered & Open:       | <u>4</u>       |             | <u>0</u>       |             | <u>4</u>       |

Each apartment will have the exclusive use of at least 2 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

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):

n/a

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

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

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

|            | <u>Conforming</u> | <u>Non-Conforming</u> | <u>Illegal</u>    |
|------------|-------------------|-----------------------|-------------------|
| Uses       | <u>  X  </u>      | <u>          </u>     | <u>          </u> |
| Structures | <u>  X  </u>      | <u>          </u>     | <u>          </u> |
| Lot        | <u>  X  </u>      | <u>          </u>     | <u>          </u> |

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

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

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

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

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

described in Exhibit   A  .

as follows:

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

There are no limited common elements in this project.

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

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

as follows:

The land area under and surrounding each permitted structure as shown and delineated on the Condominium Map:

Unit 1: 5,301 sf

Unit 2: 5,949 sf

Note: The land area designated as limited common elements are not legally subdivided lots.

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

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

as follows:

Unit 1: 50% appurtenant common interest

Unit 2: 50% appurtenant common interest

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

Exhibit B describes the encumbrances against the title contained in the title report dated January 26, 2005 and issued by Security Title Corp.

Blanket Liens:

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

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

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

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

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>  |
|---------------------|---|
| Mortgages           | Buyer may lose rights to purchase Unit, but would be entitled to return of all deposits, less escrow cancellation fee, if default and foreclosure occur before conveyance. However, should the Buyer's deposit be disbursed by Escrow and the lien be foreclosed prior to conveyance to Buyer, Buyer may not be able to recover any deposits. |

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:**

Single Family Residential Dwelling Unit 1 was completed 10/25/04.  
Storage Shed Unit 2 was completed 10/25/04.

H. **Project Phases:**

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

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

IV. CONDOMINIUM MANAGEMENT

A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer
- self-managed by the Association of Apartment Owners
- the Developer or Developer's affiliate
- 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 D contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change). Note: Developer has not conducted a reserve study in accordance with 514A-83.6, HRS and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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 E contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated February 3, 2005  
Exhibit F contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.court.hawaii.gov](http://www.court.hawaii.gov)

Website to access unofficial copy of laws: [www.hawaii.gov/legis/](http://www.hawaii.gov/legis/)

Website to access rules: [www.hawaii.gov/dca/ra/](http://www.hawaii.gov/dca/ra/)

This Public Report is a part of Registration No. 5641 filed with the Real Estate Commission on February 22, 2005

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

YELLOW paper stock

WHITE paper stock

PINK paper stock

C. Additional Information Not Covered Above

DISCLOSURE REGARDING SELECTION OF REAL ESTATE BROKER:

The Developer has not selected a real estate broker for the sale of either unit in the project at this time.

When the Developer offers either unit for sale, the Developer shall (1) submit to the Real Estate Commission, a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, together with a duly executed Disclosure Abstract identifying the designated broker, and (2) provide a copy of the Disclosure Abstract to the purchaser together with a copy of this Public Report.

- 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.

Keith A. Cabral and Yolanda L. Portugal-Cabral

Printed Name of Developer

By: Yolanda L. Portugal-Cabral  
Keith A. Cabral  
 Duly Authorized Signatory\*

2/16/05  
 Date

Keith A. Cabral and Yolanda L. Portugal-Cabral, Developer

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 "A"**

- Common Element.      The common elements which the units have immediate access to include:
- a.      The land in fee simple.
  - b.      All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

END OF EXHIBIT "A"

**EXHIBIT "B"**

| <u>UNIT NO.</u> | <u>LIMITED COMMON ELEMENT</u> | <u>COMMON INTEREST</u> |
|-----------------|-------------------------------|------------------------|
| 1               | Approx. 5,301 sf              | 50 %                   |
| 2               | Approx. 5,949 sf              | 50 %                   |

END OF EXHIBIT "B"

**EXHIBIT "C"**

1. TAXES            Tax Map Key            KAUAI            1-9-005-019

KAUAI 2004-2005 TAX ROLL

|       | 2004 VALUE | EXEMPTION | NET     |
|-------|------------|-----------|---------|
| BLDG  | 17,000     | 0         | 17,000  |
| LAND  | 103,100    | 0         | 103,100 |
| TOTAL | 120,100    |           | 120,100 |

Taxes for the Fiscal Year 2004-2005 are a lien, payable as follows:

|                              |          |      |
|------------------------------|----------|------|
| 1 <sup>st</sup> Installment: | \$490.29 | PAID |
| 2 <sup>ND</sup> Installment: | \$490.28 | PAID |

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Reservation unto the Territory of Hawaii, now State of Hawaii of all water rights of whatever nature ancient or otherwise, appurtenant to the land in

LAND PATENT GRANT NO. 10,624

Dated:                    May 20, 1938

4. "The Purchaser shall, at his own cost and expense, install to the satisfaction of the County Engineer for the County of Kauai, a fifteen inch (15") drain pipe under the crossing which the purchaser shall construct as an approach connecting said lot with the road, and to at all times, maintain said drain clear of all obstruction" as contained in

LAND PATENT GRANT NO. 10,624

Dated:                    May 20, 1938

5. MORTGAGE

|              |  |
|--------------|--|
| Mortgagor:   | Keith A. Cabral and Yolanda L. Portugal-Cabral, Husband and wife, as Tenants by the Entirety |
| Mortgagee:   | People's Choice Home Loan, Inc., organized and existing under the laws of Wyoming            |
| Dated:       | October 1, 2003  |
| Recorded:    | October 8, 2003  |
| Document No. | 2003-218290  |

To Secure: \$140,000.00  
And any additional advances and other amounts secured  
thereby, all according to the terms of that certain  
promissory note of said mortgagor(s) therein referred to

The foregoing mortgage was assigned by the following:

#### ASSIGNMENT OF MORTGAGE

Assignor: People's Choice Home Loan, Inc.  
Assignee: Mortgage Electronic Registration Systems, Inc. organized  
and existing under the laws of Delaware  
Dated: October 14, 2003  
Recorded: May 27, 2004  
Document No. 2004-107921

#### 6. MORTGAGE

Mortgagor: Keith A. Cabral and Yolanda L. Portugal-Cabral, husband  
and wife as Tenants by the Entirety  
Mortgagee: People's Choice Home Loan, Inc. a corporation organized  
and existing under the laws of Wyoming  
Dated: October 1, 2003  
Recorded: October 8, 2003  
Document No. 2003-218291  
To Secure: \$35,000.00  
And any additional advances and other amounts secured  
thereby, all according to the terms of that certain  
promissory note of said mortgagor(s) therein referred to

#### 7. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

#### DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "KOULA":

Dated: January 11, 2005  
Document No. 2005-019397

Condominium Map No. 3931, to which reference is hereby made.

*The Project consists of two (2) Condominium apartments ("Units") as follows:*

|               |                          |                     |
|---------------|--------------------------|---------------------|
| <i>UNIT 1</i> | <i>5,301 square feet</i> | <i>50% interest</i> |
| <i>UNIT 2</i> | <i>5,949 square feet</i> | <i>50% interest</i> |

8. BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF  
"KOULA"

Dated: January 11, 2005  
Document No. 2005-019398

7. FIRST AMENDMENT TO CONDOMINIUM MAP NO. 3931

Dated: July 20, 2005  
Document No. 2005-143145

**END OF EXHIBIT "C"**

EXHIBIT D

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

| <u>Apartment</u> | <u>Monthly Fee</u> x 12 months = <u>Yearly Total</u> |
|------------------|--|
| Unit 1           | None   |
| Unit 2           | None   |

Note: There are no maintenance fees. The Bylaws allow the Association of Owners to set maintenance fees should they be required in the future.

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

Estimate of Maintenance Fee Disbursements:

Monthly Fee x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
  - common elements only
  - common elements and apartments
- Elevator
- Gas
  - common elements only
  - common elements and apartments
- Refuse Collection
- Telephone
- Water and Sewer

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL  
 Keith A. Cabral and  
 Yolanda L. Portugal-Cabral, as agent for/and/or employed by \_\_\_\_\_ n/a  
 the condominium managing agent/developer for the  
 KOULA \_\_\_\_\_ condominium project, hereby certify that the

above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

*Yolanda L. Portugal-Cabral*  
*Keith A. Cabral*  
 \_\_\_\_\_  
 Signature

*2/16/05*  
 \_\_\_\_\_  
 Date

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

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

END OF EXHIBIT "D"

EXHIBIT E

SUMMARY OF SALES CONTRACT

1. Seller shall furnish Buyer EVIDENCE OF SELLER'S MARKETABLE TITLE to the interest being conveyed to the Buyer. If Seller fails to deliver title as provided, Buyer has the option to terminate the agreement and have any of Buyer's deposits returned, without excluding any other remedies available to Buyer. Buyer will receive an Owner's standard coverage policy of title insurance at closing issued in the amount of the sales price, for which Seller shall pay 60% of the premium charged, and Buyer shall pay 40% of such premium.
2. RISK OF LOSS shall pass to Buyer upon transfer of title or upon occupancy, whichever occurs first.
3. In the event of DEFAULT BY EITHER PARTY, then either party may bring an action of breach of contract against the other and seek specific performance; the defaulting party shall be responsible for any costs incurred. In the event of a dispute between the parties, the Sales Contract provides for non-binding MEDIATION between the parties followed by BINDING ARBITRATION if mediation is unsuccessful.
4. Seller agrees to provide a SELLER'S DISCLOSURE STATEMENT using the Board of Realtor's current and standard form for such disclosure, and to provide additional disclosure for any newly discovered material facts which become known during the escrow process.
5. Seller shall provide and Buyer acknowledge receipt of the following DOCUMENTS: (a) Final Public Report, (b) Declaration of Condominium Property Regime, (c) Bylaws of the Association, (d) Condominium Map, (e) Escrow Agreement, and any other documents required by Chapter 514A State of Hawaii Revised Statutes. The Buyer shall have the RIGHT TO CANCEL the contract up to thirty (30) days after receipt of documents.
6. TIME IS OF THE ESSENCE in this contract. If, for reason's beyond Buyer's or Seller's control, a party cannot perform so as to close by the Schedule Closing Date, then such party may extend the Scheduled Closing Date by up to thirty (30) days by delivery of written notice to Escrow and the other party to allow performance. Thereafter, any further extension of the Scheduled Closing Date must be agreed to in writing by both parties.

--continued

Sales Contract Summary  
p.2 of 2

7. SELLER'S AND BUYER'S BROKERS advise their clients to consult their respective attorneys, accountants, and other professionals regarding the transaction. Buyer and Seller acknowledge that they are not relying on the Brokers for such information, and that the Brokers shall not be held liable in the event of the Buyer's or Seller's failure to perform pursuant to the contract.

*Note: The above summary explains only a few of the terms and provisions contained in the Sales Contract. The Buyer should refer to the full Sales Contract to determine actual rights and obligations.*

END OF EXHIBIT "E"

**SUMMARY OF ESCROW AGREEMENT**

THE FULL ESCROW AGREEMENT SHOULD BE REFERRED TO FOR A FULL EXPLANATION OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES, AND THE FULL ESCROW AGREEMENT, NOT THIS SUMMARY, SHALL GOVERN ANY CONFLICT BETWEEN THE TWO DOCUMENTS.

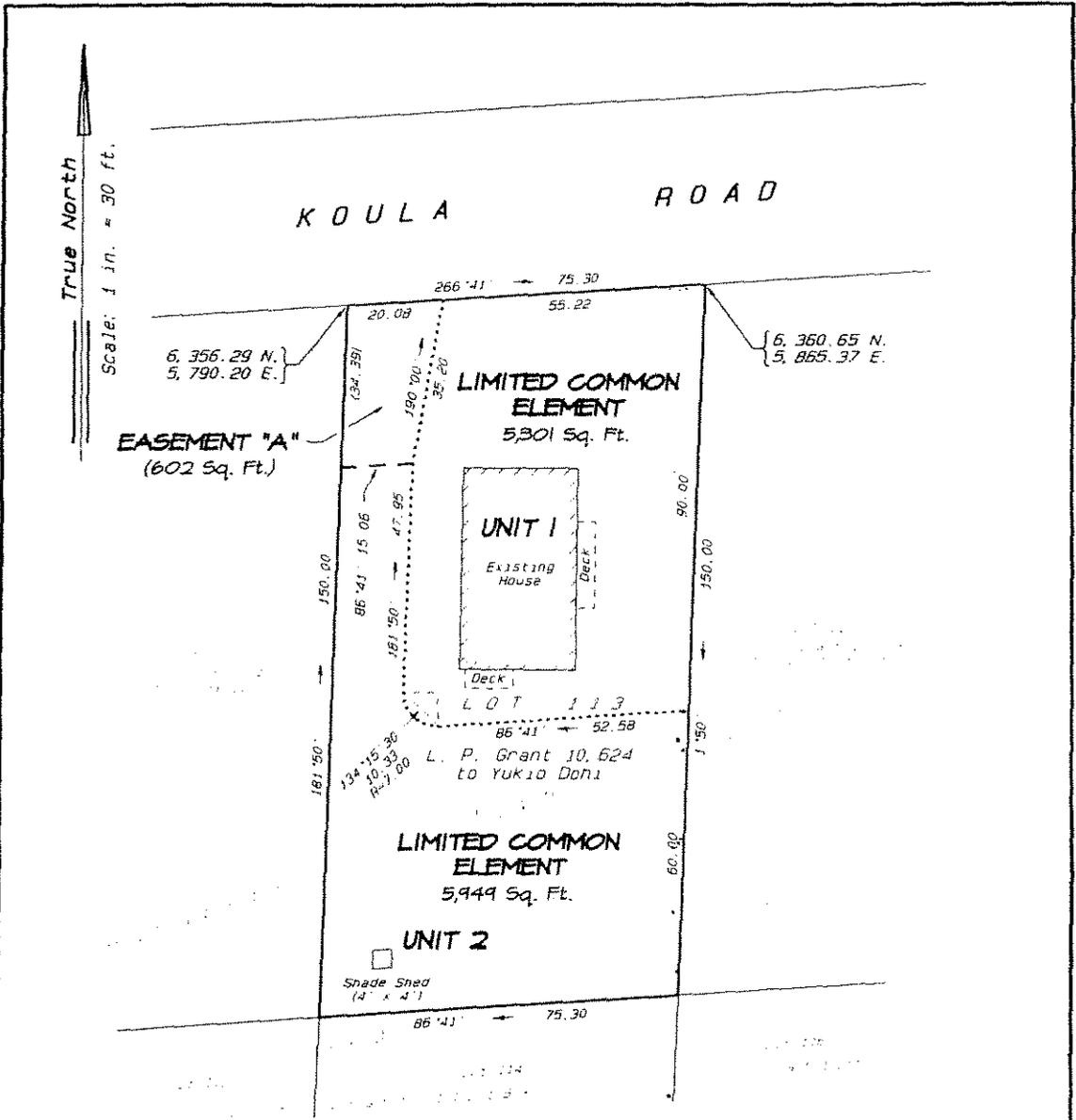
The Escrow Agreement between SECURITY TITLE CORPORATION, INC. ("Escrow") and KEITH A. CABRAL and YOLANDA L. PORTUGAL-CABRAL contains the following provisions, among others, which may be modified or otherwise limited by provisions not here summarized:

1. Whenever a fully executed Sales Contract is made on the KOULA CONDOMINIUM PROJECT, the Sales Contract shall be entered into escrow; the Sales Contract shall direct that all payments be made to escrow, deposited in an account for the Project, and disbursed from Escrow as directed by the Sales Contract and the Escrow.
2. No disbursements shall be made by Escrow to Seller until: (a) 48 hours have elapsed since Buyer's receipt of the Project's Final Public Report; (b) Buyer has waived the right to cancel the Sales Contract by signing; (c) Seller has notified Escrow that all other requirements of Hawaii Revised Statutes Sections 514A-39 and 514A-63 have been met.
3. Escrow shall refund Buyer's funds, less a cancellation fee, if (a) less than 48 hours have elapsed since Buyer received a true copy of the Project's Final Public Report and Buyer makes written request to cancel the escrow; (b) Buyer exercises a right to cancel as provided under Hawaii Revised Statutes, Chapter 514A; or (c) after Buyer's having signed the waiver of his right to cancel in accordance with 514A-62, Hawaii Revised Statutes, there shall be material change in the Project entitling Buyer to cancel the Sales Contract pursuant to Section 514-A-63, Hawaii Revised Statutes
4. Upon closing, Escrow shall deliver an Apartment Deed to Buyer, disburse funds to Seller, and record all documents as is customary in the Bureau of Conveyances of the State of Hawaii.
5. If Seller delivers written certification to Escrow that a Buyer has defaulted under the terms of the sales agreement and that Seller has terminated the agreement according to terms provided in the agreement, Escrow shall notify Buyer of his or her default; and thereafter, treat all funds of the Buyer paid on account of the sales agreement, less cancellation fee imposed by Escrow, as funds of the Seller as if transmitted to Escrow as the escrowed funds of the Seller not the Buyer.

6. Escrow shall have no responsibility for the validity or sufficiency of any CPR documents generated by Seller. Escrow shall not be called upon to resolve any disputes arising between Buyer and Seller.

7. Escrow shall be entitled to compensation for services at a standard schedule rate and as provided by the Sales Contract.

END OF EXHIBIT "F"



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

*Portugal*  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 CERTIFICATE No. 2225-SE

Condominium Map  
 Showing  
 "KOULA"  
 UNIT 1 & UNIT 2  
 AND  
 Designation of EASEMENT "A"  
 Being Lot 113  
 Hanapepe Town Lots, Second Series,  
 L. P. Grant 10,624 to Yukio Dohi  
 At Hanapepe, Waimea, Kaula, Hawaii

Owner: Keith Cabral & Wf.  
Talanaka Portugal-Cabral

NOTES:

- 1 EASEMENT "A" Affecting Unit 2, In favor of Unit 1 For Access and Utility Purposes.
- 2 Origin of azimuth and coordinates referred to Government Survey Triangulation Station PUDLO
- 3 This project does not involve the sale of individual subdivided lots. The dotted lines on the condominium map are for illustration purposes only. They represent either a limited common element or a common element.

## DESCRIPTION

### “KOULA”

#### UNIT 1 LIMITED COMMON ELEMENT

Portion of Lot 113  
Hanapepe Town Lots, Second Series,

Also Portion of L. P. Grant 10,624 to Yukio Dohi

Land situated at Hanapepe, Waimea, Kauai, Hawaii.

Beginning at the northeast corner of this parcel of land, the northwest corner of Lot 115 Hanapepe House Lots, Second Series, portion of L. P. Grant 10,178 to Hiroshi Koachi and the south side of Koula Road, the coordinate of said point of beginning referred to Government Survey Triangulation Station “PUOLO” being 6,360.65 feet North and 5,865.37 feet East, thence running by azimuths measured clockwise from True South:

1. 1°50' 90.00 feet along Lot 115 Hanapepe House Lots, Second Series;
2. 86°41' 52.58 feet along Unit 2, Limited Common Element of “Kuolo” portion of Lot 113 Hanapepe House Lots, Second Series;
3. Thence along same on a curve to the right with a radius of 7.00 feet, the chord azimuth and distance being 134°15'30" 10.33 feet;
4. 181°50' 47.95 feet along same;
5. 190°00' 35.20 feet along same;
6. 266°41' 55.22 feet along the south side of Kuola Road to the point of beginning and containing an area of 5,301 Square Feet.



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Licensed Professional Land Surveyor  
Certificate 2225-SE (Expires 04/06)  
Portugal Surveying & Mapping, Inc.  
Lihue, Kauai, Hawaii  
January 5, 2005

TMK: (4) 1-9-05:19 Unit 1

**DESCRIPTION**

**“KOULA”**

**UNIT 2  
LIMITED COMMON ELEMENT**

Portion of Lot 113  
Hanapepe Town Lots, Second Series,

Also Portion of L. P. Grant 10,624 to Yukio Dohi

Land situated at Hanapepe, Waimea, Kauai, Hawaii.

Beginning at the northwest corner of this parcel of land, the northeast corner of Lot 111 Hanapepe House Lots, Second Series, L. P. Grant 9,949 to T. Hanada and the south side of Koula Road, the coordinate of said point of beginning referred to Government Survey Triangulation Station “PUOLO” being 6,356.29 feet North and 5,790.20 feet East, thence running by azimuths measured clockwise from True South:

- |    |  |   |
|----|--|---|
| 1. | 266°41'  | 20.08 feet along south side of Koula Road;  |
| 2. | 10°00'   | 35.20 feet along Unit 1, Limited Common Element of “Kuolo” portion of Lot 113 Hanapepe House Lots, Second Series; |
| 3. | 1°50'  | 47.95 feet along same;  |
| 4. | Thence along same on a curve to the left with a radius of 7.00 feet, the chord azimuth and distance being 314°15'30" | 10.33 feet;   |
| 5. | 266°41'  | 52.58 feet along same;  |
| 6. | 1°50'  | 60.00 feet along Lot 115 Hanapepe House Lots, Second Series;  |
| 7. | 86°41'   | 75.30 feet along Lot 114 Hanapepe House Lots, Second Series;  |

7. 181°50' 150.00 feet along Lot 111 Hanapepe House Lots, Second Series to the point of beginning and containing an area of 5,949 Square Feet.

**SUBJECT, HOWEVER** to Easement "A" in favor of Unit 1 for Access and Utility Purposes, described as Follows:

**EASEMENT "A"**

Beginning at the northwest corner of this parcel of land, the northeast corner of Lot 111 Hanapepe House Lots, Second Series, L. P. Grant 9,949 to T. Hanada and the south side of Koula Road, the coordinate of said point of beginning referred to Government Survey Triangulation Station "PUOLO" being 6,356.29 feet North and 5,790.20 feet East, thence running by azimuths measured clockwise from True South:

1. 266°41' 20.08 feet along the south side of Koula Road;
2. 10°00' 35.20 feet along Unit 1, Limited Common Element of "Kuolo" portion of Lot 113 Hanapepe House Lots, Second Series;
3. 86°41' 15.06 feet along remainder of Unit 2, Limited Common Element of "Kuolo" portion of Lot 113 Hanapepe House Lots, Second Series;
4. 181°50' 34.39 feet along Lot 111 Hanapepe House Lots, Second Series to the point of beginning and containing an area of 602 Square Feet.



Licensed Professional Land Surveyor  
Certificate 2225-SE (Expires 04/06)  
Portugal Surveying & Mapping, Inc.  
Lihue, Kauai, Hawaii  
January 5, 2005

TMK: (4) 1-9-05:19 Unit 2