

# CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer: MATTHEW G. BEALL  
Address: P. O. Box 1148, Kapaa, Hawaii 96746

Project Name(\*): "AKAHAI" CONDOMINIUM  
Address: Lot 52-A-2, Kuhio Highway, Hanalei, Hawaii

Registration No. 5642

Effective date: November 16, 2005

Expiration date: May 27, 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.
- FINAL:**  
(white) The developer has legally created a condominium and has filed complete information with the Commission.  
 No prior reports have been issued.  
 This report supersedes all prior public reports.  
 This report must be read together with \_\_\_\_\_
- SUPPLEMENTARY:**  
(pink) This report updates information contained in the:  
 Preliminary Public Report dated: \_\_\_\_\_  
 Final Public Report dated: March 22, 2005 with effective date of April 27, 2005  
 Supplementary Public Report dated: \_\_\_\_\_
- And  Supersedes all prior public reports  
 Must be read together with Final Public Report  
 This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

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

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104

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

Required and attached to this report                       Not required - Disclosures covered in prior 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:

The purpose of this Supplementary Public Report is to provide additional information concerning the project. Consequently, the following has been added to pages 3, 20, and 20(a):

1. Exhibit J is added to the public report. See page three.

2. The Developer inquired with Kauai County regarding the availability of County services normally required for the construction of an Additional Dwelling Unit (ADU) on the CPR Unit that applies for the second building permit. The Developer **was not** able to obtain Kauai County clearance for the construction of the ADU. The Developer provided notification, in general, of potential building restrictions in the first paragraph of the Special Notice on page 2 of this Public Report. The Developer desires to provide additional relevant information concerning the availability of an ADU for this Project as follows:

- 1) The Fire Department determined the Project is located too far from the existing water supply to qualify for the ADU. A copy of the ADU Facilities Clearance Form is attached as Exhibit J to this Public Report. Consequently, the owner of the Unit applying for the ADU may be required to demonstrate alternative methods of fire control acceptable to the Fire Department. The buyer should contact the Fire Department to determine the exact nature of the approved alternative fire control measures.
- 2) The Department of Water, as of December 28, 2004 may grant a second water meter if the applicant submits a formal request together with acceptable construction drawings for the installation of the additional water meter. The Developer has submitted application for and is waiting for approval of the second water meter.

**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 no residential structures on the Project. There are two (2) shade structures on the project, which may be defined as an "apartment" under the Condominium Property Act.
2. Lot 52-A-2 is subject to the terms of a Partition Deed that contains a map identified as Exhibit A. The map indicates there is no vehicular access along the portion of Lot 52-A-2 that fronts Kuhio Highway. A copy of the Partition Deed dated May 25, 1990 and recorded with the Bureau of Conveyances as Document No. 90-084718, was submitted to the Real Estate Commission, identified under item number 11 of the Table of Contents. The map also indicates the Lot 52-A-2 is within a special Flood Hazard Zone that indicates a coastal base Flood Elevation 24 feet above Mean Sea Level. (Please refer to Partition Deed stated above.)
3. Lot 52-A-2 is subject to a SMA Single Family Residence Agreement ("Agreement"). A copy of the Agreement dated February 14, 1980 and recorded with the Bureau of Conveyances in Liber 14685 at Page 698, was submitted to the Real Estate Commission, identified under item number 11 of the Table of Contents. Paragraph 2 of the Agreement indicates that any future single-family dwelling to be constructed on that parcel within the Special Management Area shall require a Special Management Area Use Permit. (Please refer to Agreement stated above.)

(See Page 2a)

**SPECIAL NOTICE (CONT.):**

4. 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.
5. 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.
6. 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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EXHIBIT I:	Summary of Covenants, Conditions and Restrictions (see prior report)
EXHIBIT J:	Additional Dwelling Unit Facilities Clearance Form

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 SMA Single Family Residence Agreement; (3) Agreements; Partition Deed; and Mortgage

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. 5642 filed with the Real Estate Commission on April 4, 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:**

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

There are no residential improvements located on the project. There are two (2) shade structures on 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 Purchaser 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.

In addition to those uses provided for herein, the owners of Units A and B will share a septic system to be installed within Easement "S-1" and Easement "S-2." Each Unit owner will share equally in the cost of installation. The Kauai County Department of Health allows a septic system connection to structures with no more than a total of five bedrooms. Unit A's dwelling unit may only use two bedrooms. Unit B's dwelling unit may only use three bedrooms. Any Unit owner who constructs or uses more bedrooms than allotted by this paragraph is liable to the other Unit owner for damages and must immediately remove any bedroom in excess of its allotment.

This Project does not have access by way of Kuhio Highway. Access to both CPR units is over Easement "A" as described on the Condominium Map, attached as Exhibit A to the Final Public Report.

Lot 52-A-2 is subject to the terms of a Partition Deed that contains a map identified as Exhibit A. The map indicates there is no vehicular access along the portion of Lot 52-A-2 that fronts Kuhio Highway. A copy of the Partition Deed dated May 25, 1990 and recorded with the Bureau of Conveyances as Document No. 90-084718, was submitted to the Real Estate Commission, identified under item number 11 of the Table of Contents. The map also indicates the Lot 52-A-2 is within a special Flood Hazard Zone that indicates a coastal base Flood Elevation 24 feet above Mean Sea Level. (Please refer to Partition Deed stated above.)

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The Developer inquired with Kauai County regarding the availability of County services normally required for the construction of an Additional Dwelling Unit (ADU) on the CPR Unit that applies for the second building permit. The Developer was not able to obtain Kauai County clearance for the construction of the ADU. The Developer provided notification, in general, of potential building restrictions in the first paragraph of the Special Notice on page 2 of this Public Report. The Developer desires to provide additional relevant information concerning the availability of an ADU for this Project as follows:

(See Page 20a)

C. Additional Information (continued):

- 1) The Fire Department determined the Project is located too far from the existing water supply to qualify for the ADU. A copy of the ADU Facilities Clearance Form is attached as Exhibit J to this Public Report. Consequently, the owner of the Unit applying for the ADU may be required to demonstrate alternative methods of fire control acceptable to the Fire Department. The buyer should contact the Fire Department to determine the exact nature of the approved alternative fire control measures.
- 2) The Department of Water, as of December 28, 2004 may grant a second water meter if the applicant submits a formal request together with acceptable construction drawings for the installation of the additional water meter. The Developer has submitted application for and is waiting for approval of the second water meter.

The Developer, Matthew G. Beall, is licensed in the State of Hawaii as a real estate broker for Century 21 All Islands. Units of the CPR project will be listed with Century 21 All Islands from whom the above named Developer may receive a commission based on his agreement with Century 21 All Islands.

- 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.

MATTHEW G. BEALL  
Name of Developer

By:   
Duly Authorized Signatory\*

10/25/05  
Date

MATTHEW G. BEALL, Owner/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.**

