

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer ANTHONY SCOTT BARDIN

Address 12918 Warren Avenue, Los Angeles, California 90066

Project Name(*): 5071 OPELU STREET

Address 5071 Opelu Street, Hanalei, Kauai, Hawaii 96714

Registration No. 5795

Effective date: October 17, 2005

Expiration date: November 17, 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 governmental agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

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

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

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

Type of Report:

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

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 expire on

(*) Exactly as named in the Declaration

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report Not Required - disclosure 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:

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A RESIDENTIAL DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY.

1. This Public Report does not constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it ensure that all county codes, ordinances and subdivisions requirements have necessarily been complied with.
2. This Project does not involve the sale of individual subdivided lots. The land area beneath and immediate adjacent to each unit as shown on the condominium map is designated as a limited common element and does not represent a legally subdivided lot. The dotted lines on the condominium map merely represent the approximate location of the limited common element assigned to each unit.
3. Facilities and improvements normally associated with County approved subdivisions may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION REGARDING THE FORGOING.

TABLE OF CONTENTS

	page
Preparation of this Report	1
Expiration Date of Reports	1
Type of Report	1
Disclosure Abstract	2
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Operation of the Condominium Project	4
I. PERSONS CONNECTED WITH THE PROJECT	5
Developer	
Attorney for Developer	General Contractor
Real Estate Broker	Escrow Company
	Condominium Managing Agent
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	6
B. Condominium Map (File Plan)	6
C. Bylaws	6
D. House Rules	7
E. Changes to Condominium Documents	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	8
B. Underlying Land	9
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	13
E. Encumbrances Against Title	14
F. Construction Warranties	15
G. Status of Construction	16
H. Project Phases	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements	17
B. Estimate of Initial Maintenance Fees	17
C. Utility Charges for Apartments	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission	18
B. Buyer's Right to Cancel Sales Contract	18
C. Additional Information Not Covered Above	20
D. Signature of Developer	21
EXHIBIT A: Description of Apartments	
EXHIBIT B: Common Elements and Limited Common Elements	
EXHIBIT C: Encumbrances Against Title	
EXHIBIT D: Summary of Sales Contract	
EXHIBIT E: Summary of Escrow Agreement	
EXHIBIT F: Design Guidelines	
EXHIBIT G: Covenants and Restrictions for Hanalei Palms	
EXHIBIT H: Special Power of Attorney	

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. The 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 of 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 spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: ANTHONY SCOTT BARDIN _____ Phone: (310) 682-1716 _____
Name
12918 Warren Avenue _____
Business Address
Los Angeles, California 90066 _____

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: Country Brokers, Ltd. _____ Phone: (808) 826-4099 _____
Name (Business)
P. O. Box 1468 _____
Business Address
Hanalei Kauai, Hawaii 96714 _____

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

General Contractor: Eugene Lopez, dba _____ Phone: (808) 828-6855 _____
All Phase Construction (Business)
Name
4195 Kalekoho Street _____
Business Address
Kilauea, Hawaii 96754 _____

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

Attorney for Developer: Michael H. Sakai, Esq. _____ Phone: (808) 531-4171 _____
Name (Business)
201 Merchant Street, Suite 902 _____
Business Address
Honolulu, Hawaii 96813-2977 _____

**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. 2005-183875
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]:

- 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. 4073
 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 manners which affect how the condominium project will be governed.

The Bylaws for this condominium re:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 2005-183876
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

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

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

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

*The percentage 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:

A summary of the reserved rights are as follows (references are to paragraphs in the Declaration):

Par. 16.0. The Developer reserved the right to file an amendment as provided by Section 514A-12, Hawaii Revised Statutes.

Par. 17.0. The Developer also reserved the right to amend Declaration, Bylaws or Condominium Map in order to correct any typographical or grammatical error, or to comply with State, Federal or local law.

[] 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 period 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 fee simple owner of the land in order to develop the project. The developer may have then entered into an 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: 5071 Opelu Street, Hanalei, Kauai, Hawaii 96714
Tax Map Key (TMK): (4) 5-5-010-039

[X] Address [] TMK is expected to change because County of Kauai may assign a new cpr number for each unit

Land Area: 9,628 [X] square feet [] acre(s) [X] Zoning: R-4

Fee Owner: ANTHONY SCOTT BARDIN
12918 Warren Avenue, Los Angeles, California 90066

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 A contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other metal post in concrete footing foundation and shade cloth sides and top

4. Permitted Uses by Zoning:

	<u>No of Apts.</u>	<u>Use Permitted By Zoning</u>
<input checked="" type="checkbox"/> Residential	_____	<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>2</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: Domestic pets are permitted

Number of Occupants: _____

Other: _____

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>
<u>Unit A</u>	<u>1</u>	<u> </u>	<u> </u>	<u>16</u>	<u>shed</u>
<u>Unit B</u>	<u>1</u>	<u> </u>	<u> </u>	<u>16</u>	<u>shed</u>

Total 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 boundary of each unit is the exterior finished surfaces of the units' perimeter walls, roofs foundations, windows and frames, doors, beams, post and entrys, if any.

Permitted Alterations to Apartments:

Each unit owner may alter the structure and any other improvements located within their unit's limited common land area as provided in paragraphs 7.0 and 15.0 of the Declaration of Condominium Property Regime.

Apartments Designated for Owner-Occupant Only: Not Applicable

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 Developer has not elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 4

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

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

Each Apartment has sufficient limited common land area for parking two (2) motor vehicles.

Commercial parking garage permitted in condominium project.

Exhibit contain additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational 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 _____

10. Conditions 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

1. 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 B .

as follows:

2. Limited Common Elements: 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 B.*

as follows:

*NOTE: Land areas referenced in Exhibit B 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 A	50%
Unit B	<u>50%</u>
	100%

The common interest was determined by allocating an equal percentage to both units.

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 C describes the encumbrances against the title contained in the title report dated September 15, 2005 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 specific 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	If the Developer defaults under its loan, the Lender may foreclosure on the property. A foreclosure would terminate a buyers interest in a sales contract. All deposits will be refunded if a sales contract is terminated.

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. There are no warranties, express or implied.
2. Appliances:
None. There are no warranties, express or implied.

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

Units A and B were constructed in September, 2005.

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 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, your apartment may be liened and 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 ____ contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change)

See Page 20.

C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- None* Electricity (____ Common Elements only _____ Common Elements & Apartments)
- Gas (_____ Common Elements only _____ Common Elements & Apartments)
- Water Sewer Television Cable
- Other _____

The Developer intends to provide hook-up for electricity and water to each unit.

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

[X] Specimen Sales Contract
Exhibit D contains a summary of the pertinent provisions of the sales contract.

[X] Escrow Agreement dated July 26, 2005
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.

[X] Other Restrictive Covenants dated July 21, 1977

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 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 a 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 Report issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime
 - C) Bylaws of the Association of Apartment Owners
 - D) House Rules, if any.
 - E) Condominium Map
 - 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: Restrictive Covenants dated July 21, 1977

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

Website to access official copy of laws: www.capitol.hawaii.gov
Website to access unofficial copy of law: www.hawaii.gov/dcca/hrs
Website to access rules: www.hawaii.gov/dcca/har

This Public Report is part of Registration No. 5795 filed with the Real Estate Commission on September 23, 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**

NOT A SUBDIVISION. This is a condominium project which should not be confused with a subdivision. A purchaser of an apartment unit will be conveyed an apartment unit together with an "undivided" percentage interest in the common elements of the project. The entire parcel of land upon which the project is situated is designated as a common element. That portion of the common element which each purchaser has the exclusive right to use is called a limited common element or area, but is not a separate, legally subdivided lot.

MAINTENANCE FEES. Developer believes that there will be no maintenance fees. This is because all costs of every kind pertaining to each apartment and its respective limited common element, including but not limited to, cost of landscaping, maintenance, repair, replacement and improvement shall be borne entirely by the respective apartment owner. All utilities are or will be separately metered. Based on the foregoing, there is no schedule of maintenance fees attached to this Public Report.

Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners to purchase fire insurance to cover the improvements of the Project, and that the premiums for the insurance be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses. Prospective purchasers should consult with their own insurance professionals to obtain an estimate for individual fire and hazard insurance.

RESERVES. Developer discloses that no "reserve study" was done in accordance with Section 514A-83.6, Hawaii Revised Statutes, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

DESIGN COVENANTS. The Declaration of Condominium Property for this Project has a set of Design Guidelines. See Exhibit "F" attached hereto. Any new improvements to a Unit will be subject to those Design Guidelines.

RESTRICTIVE COVENANTS. The Project is subject to the terms of Restrictive Covenants dated July 21, 1977, which was recorded in the Bureau of Conveyances in Book 12339, page 26 (the "Declaration"). The Declaration encumbers 29 lots in a subdivision known as Hanalei Palms, Unit II.. This Project is situated on one of those 29 lots. Exhibit "G" to this Public Report contains the covenants and restrictions established by the Declaration. Prospective purchasers should carefully review the Declaration should they wish to make any improvements. The Declaration establishes an Architectural Control Committee (the "Committee") composed of James C. Blackwell, Jr. The Developer discloses that such person could not be located in Kauai and further that as far as Developer knows, there is no Committee that is presently functioning.

SEPTIC SYSTEM. Future improvements such as a dwelling may require the installation of a septic system. The Developer does not know whether the Planning Department would permit one septic per unit or require that both units share and be connected to a single system. In the event the system must be a shared system, then the Developer would have the right to designate how many bedrooms each unit would be entitled to. See paragraph 15.0(c) of Declaration of Condominium Property Regime.

FLOOD AND TSUNAMI DISTRICT. The Condominium Map, amongst other documents, indicates that the Project is located within a 100 year flood zone designated AE. Flood zone AE requires flood insurance. There may also be additional building and construction requirements imposed by the Planning Department because of the flood and tsunami district. Prospective purchasers should consult with their insurance and design professionals to determine the impact of the AE designation.

SPECIAL POWER OF ATTORNEY. The Developer may require that each purchaser of a Unit execute a Special Power of Attorney either in favor of the Developer or a local agent. The form of the Special Power of Attorney is attached as Exhibit "H" to this Public Report. The purpose of the Power of Attorney is to facilitate an owners' application for and obtaining a building permit for a dwelling in the future. The Planning Department, County of Kauai presently requires all owners in a Project to either approve or consent to a building permit application that only affects one unit.

- 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.

ANTHONY SCOTT BARDIN

Name of Developer



ANTHONY SCOTT BARDIN
Developer

7-11-2005

Date

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"

Description of Apartments

The Project is hereby divided into the following two (2) freehold estates:

a. Unit A. Unit A consists of one freehold estate consisting of one shade structure. The net area of the structure is approximately 16 square feet. Parking for at least two vehicles is available anywhere within the limited common land area.

b. Unit B. Unit B consists of one freehold estate consisting of one shade structure. The net area of the structure is approximately 16 square feet. Parking for at least two vehicles is available anywhere within the limited common land area.

EXHIBIT "B"

Common Elements

The common elements of the Project and which the units have immediate access to include:

- a. The land in fee simple and Easements A-1 and A-2 for ingress and egress to Opelu Street.
- b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, septic or other wastewater treatment system, drainage, hot and cold water and like utilities which services more than one unit and any easements for such utility services.
- c. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

Limited Common Elements

The land area delineated and designated in the Condominium Map as limited common elements are limited common elements of a unit and consist of the following:

- a. Unit A. The land area surrounding and under Unit A is a limited common element of Unit A and is for the exclusive use of Unit A and consists of approximately 5,652 square feet; subject, however, to Easement A-1 in favor of Unit B and Easement U-1.
- b. Unit B. The land area surrounding and under Unit B is a limited common element of Unit B and is for the exclusive use of Unit B and consists of approximately 3,976 square feet; subject, however, to Easement A-2 in favor of Unit A and Easement U-1.
- c. Any fences, walls or utility systems or lines which are located within the limited common land area and which services or benefits only one unit shall be deemed a limited common element of such unit.

EXHIBIT "C"

Encumbrances Against Title

1. For real property taxes due and owing, reference is made to the County of Kauai, Real Property Tax Office.
2. Title to all minerals and metallic mines reserved to the State of Hawaii.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration dated July 21, 1977, recorded in the Bureau of Conveyances, State of Hawaii, in Book 12339, Page 622.
4. "Compliance with all Kauai County Comprehensive Zoning Ordinance requirements for development within flood and tsunami districts as per survey of Cesar C. Portugal, Registered Professional Land Surveyor No. 2225-SE, Lihue, Kauai, Hawaii dated November 21, 1975 and April 26, 1977."; as set forth in Deed dated July 27, 1977, recorded in said Bureau, in Book 12367, Page 160.
5. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
6. Mortgage dated May 16, 2005, in favor of Bank of Hawaii, a Hawaii corporation, recorded in said Bureau, as Document No. 2005-103639.
7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Condominium Property Regime for "5071 Opelu Street" dated July 12, 2005, recorded in said Bureau, as Document No. 2005-183875.
8. Condominium Map No. 4073 recorded in said Bureau.
9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By Laws of the Association of Unit Owners of 5071 Opelu Street, dated July 12, 2005, recorded in said Bureau, as Document No. 2005-183876.

EXHIBIT "D"

Summary of Sales Contract

The Sales Contract (the standard form DROA and Addendum) contains the purchase price, description and location of the apartment and other terms and conditions under which a Purchaser will agree to buy an apartment in the Project.

Among other things, the Sales Contract:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Purchaser will pay the purchase price.
2. Identifies the escrow agent and states that purchaser's deposit will be held in escrow until the Sales Contract is closed or canceled.
3. Requires that Purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Permits the Developer without the consent or approval of a purchaser to modify the Declaration, By-Laws Condominium Map or other documents provided that purchaser may cancel the Sales Contract and obtain a refund if such modification:
 - a. substantially and materially impairs the use and enjoyment of the apartment;
 - b. substantially and materially alters the arrangement of the rooms or usable space of an apartment or building;
 - c. renders unenforceable a purchasers' loan commitment;
 - d. increases the purchaser's share of common expenses or maintenance fees;
 - e. reduces the obligations of Developer of common expenses on unsold apartments.
5. Provides that the Developer is selling the apartments in "AS-IS WHERE-IS" condition. This means that the Developer is not making any warranties or representations with respect to the apartments and Project.
6. If purchaser dies (any one of them) prior to closing, Developer has the right to return purchaser's funds, less any escrow cancellation fees and cost, and cancel the Sales Contract.

7. If there is any conflict between the terms of this summary and the sales contract, the latter shall control.

8. Provides that the closing cost shall be paid as follows:

a. By purchaser: title insurance, drafting of any note and mortgage, purchaser notary fees, recording fees, one half of escrow fees, and also a start fee for common expenses, if any.

b. By Developer: drafting of apartment deed and Developer notary fees, conveyance taxes, preliminary title report, and one half of escrow fees.

9. Provides the following remedies, in the event of default under the Sales Contract:

by purchaser:

- a. Developer may bring an action against purchaser for breach of contract;
- b. Developer may retain initial deposit;
- c. Purchaser shall be responsible for expenses incurred.

by Developer:

- a. Purchaser may bring an action against Developer for breach of Contract;
- b. Purchaser may bring an action compelling Developer to perform under contract;
- c. Developer shall be responsible for expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

10. Provides that purchaser may not assign his/her interest in the Sales Contract without the prior written consent of Developer.

The Sales Contract contains various other provisions which purchaser should become acquainted with.

The Sales Contract contains various other provisions which purchaser should become acquainted with. If there is a conflict between the terms of this summary and the Sales Contract, the latter shall control.

EXHIBIT "E"

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Escrow is TITLE GUARANTY ESCROW SERVICES, INC. Under the Escrow Agreement dated July 26, 2005, these things will or may happen:

(a) Developer or Escrow will let purchasers know when payments are due and all monies received from a purchaser will be deposited in Escrow. Any interest earned on the deposits will belong to Developer.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement specifies when purchaser funds may be disbursed upon closing of a sale. The conditions include:

i) Escrow receives the purchasers' signed "Receipt for Public Report(s) and Notice of Right to Cancel";

ii) Escrow receives a certification from the Developer that the Sales Contract is effective and that the rescission right requirements in favor of purchasers have been complied with by the Developer; and

iii) The apartment deed conveying the unit to the purchaser has been recorded in the Bureau of Conveyances.

(d) The Escrow Agreement says under what conditions a refund will be made to a purchaser. Refunds can occur under the following situations:

i) If Purchaser elects to cancel the transaction in accordance with the "Receipt for the Final Public Report and Notice of Right to Cancel". The Receipt provides that purchasers may cancel the Sales Contract and purchaser is the Receipt is mailed or sent by telegram to Developer before (1) the apartment unit is conveyed to purchaser or (2) midnight of the 30th day after delivery of the Public Report(s) to me, whichever is earlier.

ii) The Developer and purchaser agree to terminate the Sales Contract;

iii) if the Developer exercises any right to cancel the transaction which it may have reserved.

NOTE: If a transaction is cancelled, the purchaser must return all documents to the Developer.

(e) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract. If a purchaser defaults, all deposits previously placed into Escrow will be forfeited by purchaser and Escrow may release such funds to Developer. See paragraph 11 of Escrow Agreement.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted. If there are any conflicts between the terms of the Escrow Agreement and this Exhibit, the former shall control.

EXHIBIT "F"

DESIGN GUIDELINES

A) Underground Utilities. There shall be no outdoor overhead wires, lines or structures for the supply of electricity, telephone, cable television, or other utilities, and no pole, tower or other structure supporting such outdoor overhead wires, shall be erected, placed, or maintained on the Property. All utility lines and connections shall be placed underground unless otherwise required by the County, the State or a public utility company, or as may be necessary on a temporary basis during any construction work done at or on the Property.

B) Grades, Slopes and Drainage. In any grading and/or excavation of any limited common elements appurtenant to any condominium apartment, the grade shall not be altered in such a manner as to affect the drainage of any adjoining limited common elements appurtenant to any other apartment or adjoining properties. No structure, plantings or other materials shall be placed or permitted to remain on or within any grades, slopes, or courses, nor shall any other activities be undertaken thereon, any of which may damage or interfere with established slopes or grades, or create a risk of flooding, erosion or sliding problems, or which may change the direction of flow, or obstruct or retard the flow, of rainwater or irrigation water, or channel it onto any other owner's limited common elements or other parts of the Property or adjacent properties..

C) Dwellings. Each dwelling constructed on the Property shall contain not less than 1,600 square feet of livable floor area, exclusive of lanais, patios, garage, storage space, and workshop, except for the square footage of any permitted guest cottage which shall not exceed the maximum area permitted by County of Kauai zoning laws. Each dwelling shall have a garage designed to accommodate at least two motor vehicles, which is architecturally harmonious with the dwelling to which it is appurtenant. The dwelling shall not be more than one (1) story in height and the roof's highest point may not exceed 15 feet in height. The elevation shall be measured from the finished grade in existence at the time this instrument is recorded. No owner may alter the finished grade of the Property in order to circumvent or alter this height restriction.

D) Fences. No fencing of any kind may be constructed within or upon any access easement or utility easement.

E) Building Setbacks. A building setback as may be required by the County of Kauai building and zoning code shall be observed from all boundaries in the Property. No permanent structure shall be built on any utility or setback easement area as shown in any further division by a condominium property regime.

F) Building Exteriors. Use of mirrored glass, reflective sun screens, or other highly reflective materials for exterior windows shall be prohibited.

G) Exterior Lighting. In order to minimize adverse impacts on the Federally Listed Threatened Species, Hawaii's shearwater and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upwards and upward-directed spotlighting of structures and features shall be prohibited.

H) Sanitation. The Property does not have sewer lines, and there is no sanitary sewer system. Septic tanks shall be located no closer than 5 feet to any boundary of the Property, and/or easement, and/or any adjacent limited common element land area, and in compliance with all applicable State of Hawaii and County of Kauai laws, rules and regulations. No cesspools shall be installed anywhere on the Property.

EXHIBIT "G"

COVENANTS AND RESTRICTIONS FOR
HANALEI PALMS
UNITS I & II

A subdivision situated near
the beach at Hanalei, Kauai, Hawaii

1. PREAMBLE

The purpose of these covenants is to assure that property owners will be fully protected from poor quality surroundings, that they will be assured of pleasant, sanitary and safe sites to erect their houses, and that the esthetic quality of the area not be jeopardized.

2. LAND USE AND BUILDING TYPE

No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot designated as residential other than one single family dwelling, not to exceed two stories in height and a private garage for not more than two cars, provided, however, that any other structure permitted under the Comprehensive Zoning Ordinance of the County of Kauai may be erected if written approval is obtained in advance from the Architectural Control Committee.

3. DWELLING QUALITY AND SIZE

No dwelling shall be permitted on any lot which is not built with a high quality of workmanship and which is not built with new materials substantially the same or better than that which can be produced on the date these covenants are recorded. The floor area shall not be less than 500 square feet. No structure shall have the shape of a Quonset hut, that is, a semicircular arching roof which also constitutes the side walls.

4. BUILDING LOCATION

No building shall be located on any lot nearer to the lot lines than specified in the Kauai County standards at the time of construction.

5. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on recorded subdivision map.

6. NUISANCES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7. TEMPORARY STRUCTURES

No structure of temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

8. GENERAL PROVISIONS

These covenants will be in effect for HANALEI PALMS from the date on which the subdivision map is recorded.

These covenants are to run with the land and shall be binding on all parties and persons claiming under them. These covenants may be changed at any time, in whole or in part, by an instrument signed by a majority of the then owners of the lots in the respective subdivision, provided, however, that changes to the covenant numbered 18, may be made only with the written approval of the Architectural Control Committee and the County of Kauai, and covenant numbered 19 herein may be changed only with the written approval of the owner of the adjacent Wilcox Pond.

9. ARCHITECTURAL CONTROL

No building, driveway, and other structures and improvements such as walls, fences, and yard pads or terraces shall be constructed, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of such structures and improvements have been approved by the Architectural Control Committee as to design, quality of workmanship and material, harmony of external design with existing structures, general appearance with regard to the character of the neighborhood, and as to location with respect to topography and finish grade elevation. The Architectural Control Committee shall review and approve in writing such plans and specifications prior to the securing of a building permit and grading permit from the County of Kauai.

10. ARCHITECTURAL CONTROL COMMITTEE

The Architectural Control Committee is composed of: James C. Blackwell, Jr., 3122 Kuhio Highway, Lihue, Kauai, Hawaii.

The committee may designate a representative to act for it. Neither the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

11. ENFORCEMENT

Any lot owner in the subdivision may enforce this covenant at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation, recover damages, or both. The Architectural Control Committee shall be responsible to enforce all provisions of this covenant. In addition the County of Kauai, in consideration of its approval

of said subdivision, shall be fully empowered to enforce Covenant Nos. 9, 11 and 18. Damages collectible shall include reasonable attorney's fee.

12. SEVERABILITY

Invalidation of any of these covenants by judgment or court order shall not affect any of the other provisions which shall remain in full force and effect.

13. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and signs used by the developer or his agent during the sales period.

14. LIVESTOCK AND POULTRY

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats and household pets, provided the same are not raised, bred or kept for commercial purposes.

15. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are sheltered and kept from public view. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

16. WATER SUPPLY

No individual water supply system shall be permitted on any lot. Water will be supplied through a public system maintained by the County of Kauai or its successor.

17. SIGHT DISTANCE AT INTERSECTIONS

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 3 and 8 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 15 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

18. NATURAL WATER COURSES

No construction of any improvements or any grading or disposal of soil, rubbish, or other material which will impede the free

flow of water in the various natural channels and water courses located within the subdivision shall be undertaken unless such impediments are approved in writing by the Department of Public Works of the County of Kauai.

19. LOTS BORDERING WILCOX POND

Lot owners shall not cause or permit the introduction of any substance which may be injurious or harmful to plant or animal life into the Wilcox Pond. The owners of lot numbers A-10-5, A-10-6, A-10-7, A-10-9, A-10-10, A-10-11, A-10-12, A-10-13, A-10-14, and A-10-15 shall locate their cesspools on the side of their lots farthest from said pond.

20. FLOOD AND TSUNAMI DISTRICT REQUIREMENTS

No structure shall be constructed or erected in violation of the flood and tsunami district standards and requirements of the Comprehensive Zoning Ordinance of the County of Kauai. Said restriction shall be included in all lot deeds.

The foregoing covenants and restrictions for building and use in the named subdivision are hereby declared and adopted by the owners of the subdivision and all easements created, granted and reserved are declared to be the act of the owners, and all conditions on purchase and ownership of property in the subdivision shall be deemed and considered covenants running with the land.

Dated at Lihue, Kauai, Hawaii, this 21 day of July, 1977.

HANALEI PALMS

BY James C. Blackwell, Jr.
JAMES C. BLACKWELL, JR.
Its General Partner

EXHIBIT "H"

5071 OPELU STREET
SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

THAT I, _____, whose address is _____, have made, constituted and appointed and by this act and these presents, do make, constitute and appoint as my agent _____, whose address is _____, and their successor in interest to the grantee of unit _____ in the 5071 OPELU STREET condominium project, TMK (4) 5-5-010:039, my true and lawful attorney with full power to act in my stead and in my behalf, to make and do the following, to wit:

To apply for and obtain a building permit for a single family dwelling located at Unit No. _____, _____, TMK No. (5) 5-5-010:039, which is further described in Exhibit "A", upon such terms and conditions as my attorney shall think fit; to execute any and all applications, certificates, receipts, grants of easements, licenses, and similar instruments necessary for obtaining any utility service, and other documents or instruments necessary or convenient for such purposes, including any other documents or agreements that may be required by any governmental authority over the issuance of building permits or utility service provider.

The power of our attorney to act in accordance with the foregoing shall not be affected by any disability or incapacity suffered by me subsequent to my execution of this instrument. All acts done by my attorney pursuant to this power during any period of disability or incompetency shall have the same effect and inure to the benefit of and bind me, my heirs, devisees and personal representatives as if I were alive, competent and not disabled.

GIVING AND GRANTING to my said Attorney full power and authority as set forth above, to do and perform any and all acts and deeds as aforesaid as I might or could do if personally present, the powers enumerated above being in said of the special powers herein granted and not in limitation thereof; and hereby ratifying all that my said Attorney shall lawfully do or cause to be done by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set our hands this ____ day of _____, 20____.

STATE OF HAWAII)
) ss.
ISLAND AND COUNTY OF KAUAI)

On this _____ day of _____, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Name: _____
Notary Public, State of Hawaii
My commission expires: