

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer: Poola Cliffs, LLC, a Hawaii limited liability company
Address: 400 Hobron Lane #2611, Honolulu, Hawaii 96815

Project Name (\*): THE POOLA CLIFFS CONDOMINIUM
Address: 5356 Poola Street, Honolulu, Hawaii 96821

Registration No. 5799 Effective date: November 23, 2005
Expiration date: August 23, 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. A Final Public Report will be issued by the developer when complete information is filed.

X CONTINGENT FINAL: (green) The developer has legally created a condominium and has filed information with the Commission as to Condominium Villa Nos. 8A, 8B, 8C, 8D, 8E and 8F for this report which EXPIRES NINE (9) MONTHS after the above effective date. Contingent Final public reports may not be extended or renewed.
[x] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with

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:
[ ] Supplementary Public Report dated:

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

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.
FORM: RECO-30 1297 / 0298 / 0800 / 0203 / 0104

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

Required and attached to this report       Not Required - Disclosures covered in this report.

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This Contingent Final Public Report has been prepared by the Developer pursuant to §514A-39.5, HRS. The Real Estate Commission issued this report before the Developer submitted certain documents and information as more fully set forth in the statutory notice below. Sales Contracts executed pursuant to this report **are binding on the buyer under those conditions specified immediately below** and in Part V.B of this report found on pages 18 & 19 of this report. This report expires nine (9) months after the effective date of the report and may not be extended or renewed.

**STATUTORY NOTICE**

"The effective date for the Developer's Contingent Final Public Report was issued before the Developer submitted to the Real Estate Commission: the executed and recorded deed or master lease for the project site; the executed construction contract for the project; the building permit; satisfactory evidence of sufficient funds to cover the total project cost; or satisfactory evidence of a performance bond issued by a surety licensed in the State of not less than one hundred percent of the cost of construction, or such other substantially equivalent or similar instrument or security approved by the Commission. Until the Developer submits each of the foregoing items to the Commission, all Purchaser deposits will be held by the escrow agent in a federally-insured, interest bearing account at a bank, savings and loan association, or trust company authorized to do business in the State. If the Developer does not submit each of the foregoing items to the Commission and the Commission does not issue an effective date for the Final Public Report before the expiration of the Contingent Final Public, then:

- (1) The Developer will notify the Purchaser thereof by certified mail; and
- (2) Either the Developer or the Purchaser shall thereafter have the right under Hawaii law to rescind the Purchaser's sales contract. In the event of a rescission, the Developer shall return all of the Purchaser's deposits together with all interest earned thereon, reimbursement of any required escrow fees, and, if the Developer required the Purchase to secure any financing commitment, reimburse any fees the Purchaser incurred to secure that financing commitment." (§514A-64.5, HRS)

The Developer is not required to submit but has for this registration submitted the following documents and information:

The executed and recorded deed for the project site.

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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: Name\* Phone: (808) 368-1374  
Poola Cliffs, LLC (Business)  
Business Address  
400 Hobron Lane #2615  
Honolulu, Hawaii 96815

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):  
Steve Johnson, member  
Christopher Scanlan, member

Real Estate Broker\*: Name Phone: (808) 735-2411  
(Business)  
Mary Worrall and Associates, Inc.  
Business Address  
Kahala Mall Office Tower, Suite 100  
Honolulu, Hawaii 96816

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

General Contractor\*: Name Phone: (808) 262-3372  
(Business)  
Nick Lohr Construction, Inc.  
Business Address  
P.O. Box 593  
Aiea, Hawaii 96701

Condominium Managing Agent\*: Name Phone: (808) \_\_\_\_\_  
Self managed by the Association of (Business)  
Apartment Owners \_\_\_\_\_  
Business Address  
\_\_\_\_\_  
\_\_\_\_\_

Attorney for Developer Name Phone: (808) 523-2500  
Eric A. James, Esq. (Business)  
Business Address  
Carlsmith Ball, LLP, 1001 Bishop Street  
American Savings Bank Tower, Suite 2200  
Honolulu, Hawaii 96813

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

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

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

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

The Declaration for this condominium is:

<input type="checkbox"/>	Proposed			Document No.:	_____
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:		Document No.:	<u>3281244</u>
<input checked="" type="checkbox"/>	Filed -	Land Court:			

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

Assignment and Assumption of Declarant's Rights under Declaration of Condominium Property Regime dated July 18, 2005 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3307264.

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			Condominium Map No.:	<u>1723</u>
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:		Document No.:	_____
<input checked="" type="checkbox"/>	Filed -	Land Court:			

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			Document No.:	_____
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:		Document No.:	<u>3281245</u>
<input checked="" type="checkbox"/>	Filed -	Land Court:			

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>100%</u>
Bylaws	65%	<u>100%</u>
House Rules	---	---

\* 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:

As set forth in Section O of the proposed Declaration, the Developer has reserved the right to amend the Declaration to: (1) file the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act, so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed fully and accurately depict the layout, location, Apartment numbers and dimensions of the Apartments as built, or so long as any plans filed therewith involve only non-material changes to the layout, location, Apartment numbers and dimensions of the Apartments as built; (2) exercise the rights reserved to the Developer in Declaration Sections N.1(Reservation of Power to Grant Easements), N.2 (Required Amendments) an N.3 (Reconfiguration of Apartments).



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: 5356 Poola Street  
Honolulu, Hawaii 96821

Tax Map Key (TMK): (1) 3-6-25-6

Address  TMK

Land Area: 15,929  square feet  acre(s) Zoning: R-7.5 Residential

Fee Owner: Name  
Poola Cliffs, LLC  
 Address  
560 N. Nimitz Highway, Suite #214  
Honolulu, Hawaii 96817

Lessor: Name  
not applicable  
 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: 3  
 Exhibit \_\_\_\_\_ contains further explanations

3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other \_\_\_\_\_

4. Uses Permitted by Zoning:

	<u>No of Apts.</u>	<u>Use Permitted by Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> 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"/> Other (Resort)	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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



7. Parking Stalls:

Total Parking Stalls: 0\*

	<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 (for each Unit)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Guest	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Unassigned	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Extra for Purchase	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Other:	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Covered & Open	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Each apartment will have the exclusive use of at least n/a 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.

\* Each Apartment has an attached garage.

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):

Not applicable.

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, Structure, Lot

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	x		
Structures	x		
Lot	x		

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

Limitations may include restrictions on extending, enlarging, or continuing the nonconformity, and restrictions on altering and repairing structures. In some cases, a nonconforming 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 A\***

as follows:

\*Note: Land areas referenced herein 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:

<u>Apartment No..</u>	<u>Common interest (%)</u>
<u>A</u>	<u>50.0 %</u>
<u>B</u>	<u>50.0 %</u>
<u>Total</u>	<u>100.0%</u>

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 August 16, 2005 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

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>
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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:

The Developer will enter into an agreement with the general contractor for the Project whereby the contractor will agree to issue for the benefit of the Developer and purchasers the customary warranty to correct any work found defective within one (1) year after the date of substantial completion of the work (as such terms are defined in the construction contract) ("Contractor's Warranty"). The Developer does not make this warranty but merely passed on the Contractor's Warranty to Purchaser and the Association. The Developer's obligations with respect to any defects will be limited to assisting the Purchaser and or the Association in presenting to the contractor any claims based on such warranty, it being understood that such Contractor's Warranty is limited to any defects reported in writing to Seller within the first year following the date of substantial completion of the work. Any claims by Purchaser, Seller and/or the Association against a contractor for construction defects, as such terms are defined in Hawaii Revised Statutes, Chapter 672E ("Contractor Repair Act"), shall be made in accordance with the provisions of the Contractor Repair Act. Purchaser shall provide Seller with a copy of all written notices which Purchaser provides to the contractor and all responses which Purchaser receives from the contractor pursuant to the Contractor Repair Act. The Developer shall assign to Purchaser, without recourse, the Contractor's Warranty and any subcontractor's or materialman's warranties that the contractor may have secured for the benefit of purchasers.

2. Appliances:

In addition, Seller shall assign to Purchaser, without recourse, any manufacturer's or dealer's warranties covering the furnishings and appliances in the Apartments.

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

Construction of the Project commenced in May 2005 and is currently expected to be completed December 15, 2005. Please note that these dates are estimates only and the actual dates of commencement and completion may vary.

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): Not applicable.

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 C** contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. Utility Charges for Apartments:

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

- None
- Electricity ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
- Gas ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
- Water
- Sewer
- Television Cable
- Other \_\_\_\_\_

## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- [n/a] Notice to Owners Occupants
- [X] Specimen Sales Contract  
**Exhibit D** contains a summary of the pertinent provisions of the sales contract.
- [X] Escrow Agreement dated September 30, 2005  
**Exhibit E** contains a summary of the pertinent provisions of the escrow agreement.

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

#### 1. Rights Under the Condominium Property Act (Charter 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.

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

- A) The Developer delivers to the buyer a copy of :
  - 1) Either the Contingent Final Public Report OR the Supplementary Public Report which has superseded the Contingent 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 thirty (30) days from the date the report(s) were delivered to the buyer.

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 16-1 07, 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 Hawaii Administrative Rules, (Chapter 107) are available online. Please refer to the following sites:

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. 5799 filed with the Real Estate Commission on October 4, 2005.

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

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C. **Additional Information Not Covered Above**

1. As set forth in **Exhibit B**, the Project is subject to that certain Declaration for Holding Tank Facility dated December 20, 2004, recorded in the Bureau of Conveyances as Document No. 2005-015429 ("HTF Declaration"), which authorizes the temporary utilization of a sewage holding tank facility for the Project. All Apartment Owners are obligated to comply with the terms and conditions of the HTF Declaration, including with regard to the operation and maintenance of the holding tank facility and any future elimination of the holding tank facility and direct connection to the city sewer system upon notification by the Department of Planning and Permitting of the City and County of Honolulu. A copy of the HTF Declaration will be provided to prospective Purchasers. It is incumbent upon prospective Purchasers to read the full text of the HTF Declaration with care.

D. 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.

Poola Cliffs, LLC, a Hawaii limited liability company  
Printed Name of Developer

By:  09-26-05  
Duly Authorized Signatory\* Date

STEVE JOHNSON - President  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

\* Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company(LLC) by the manager or member; and for an individual by the individual.

**EXHIBIT A**

**COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

The Common Elements of the Project include:

1. The Land, in fee simple, and any and all easements and appurtenances thereto.
2. All Apartment Yards (as defined in the Declaration).
3. All ducts, pumps, valves, sewer lines, drain lines, electrical equipment, cables, wiring, chutes, pipes, shafts, wires, conduits or other utility of service lines which are utilized for or serve more than one Apartment and other central and appurtenant transmission facilities over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, sewer, refuse, telephone and radio and television signal distribution; and
4. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

The Limited Common Elements of the Project include:

1. Each Apartment has as a Limited Common Element the Apartment Yard surrounding the Apartment as shown on the Condominium Map.
2. Each Apartment has as a Limited Common Element all of any ducts, pumps, valves, sewer lines, drain lines, electrical equipment, cables, wiring, chutes, pipes, shafts, wires, conduits or other utility of service lines which are utilized for or serve only such Apartment.

**EXHIBIT B**

**ENCUMBRANCES AGAINST TITLE**

The following are the encumbrances against title to the Project that are contained in the title report dated August 16, 2005 and issued by Title Guaranty of Hawaii, Inc.:

1. For real property taxes due and owing, reference is made to the Director of Finance, County of Hawaii.
2. Easement "E", as shown on Map 1, as set forth by Land Court Order No. 28625, filed June 7, 1968.
3. Grant of Easement dated January 30, 1969, in favor the City and County of Honolulu filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 524255, affecting Easement "E".
4. Agreement dated June 23, 1969 by and between Harold Minoru Aoki, Koichi Imai, Trustees, and the City and County of Honolulu filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 524256.
5. Declaration for Holding Tank Facility dated December 20, 2004, recorded in the Bureau of Conveyances as Document No. 2005-015429.
6. Declaration of Condominium Property Regime for The Poola Cliffs Condominium Project dated June 9, 2005, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3281244, as assigned by instrument dated July 18, 2005 filed in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3307264.
7. Bylaws of the Association of Apartment Owners of The Poola Cliffs Condominium dated June 7, 2005, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3281245.

EXHIBIT  C

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment No.</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
A	\$ 0.00	\$ 0.00
B	\$ 0.00	\$ 0.00
Total	\$ 0.00	Total \$ 0.00

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total(\*\*)

Utilities and Services

Air Conditioning		n/a	\$0
Electricity			
	[ ]	common elements only	n/a
	[ ]	common element and apartments	\$0
Elevator		n/a	\$0
Gas		n/a	\$0
	[ ]	common elements only	
	[ ]	common element and apartments	
Refuse Collection		n/a	\$0
Telephone		n/a	\$0
Water and Sewer		n/a	\$0

Maintenance, Repairs and Supplies

Building		n/a	\$0
Grounds		n/a	\$0

Management

Management Fee		n/a	\$0
Payroll and Payroll Taxes		n/a	\$0
Office Expenses		n/a	\$0
Insurance		n/a	\$0
Reserves(*)		n/a	\$0
Taxes and Government Assessments		\$0	\$0
Audit Fees		n/a	\$0
Other		\$0	\$0
TOTAL		n/a	\$0

I, Steve Johnson, as agent for/and/or employed by n/a, the condominium managing agent/developer for the Poola Cliffs Condominium 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.

  
 \_\_\_\_\_  
 Signature

09-26-05  
 \_\_\_\_\_  
 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. Developer discloses that no reserve study has been conducted in accordance with Section 514A-83.6, HRS, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules.

(\*\*) Yearly totals may appear inconsistent with monthly fees due to rounding.

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.

**EXHIBIT   D**

**SUMMARY OF SALES CONTRACT**

The specimen Sales Contract, filed with the Commission, provides for, among other things, a description of the Apartment to be sold, the purchase price, the closing costs, the time, manner and place of payment, the Purchaser's obligations regarding financing, the Seller's warranties and disclaimers regarding the Condominium Map and the Project, and the remedies of the Seller and of the Purchaser in the event of a default under the Sales Contract.

Among other provisions the specimen Sales Contract provides:

1. That the Sales Contract shall be binding when (i) a true copy of the Contingent Final Public Report (or Final Public Report, if applicable) together with a Receipt Form required by Hawaii Revised Statutes Section 514A-62 is delivered to the Purchaser, (ii) the Purchaser has an opportunity to read the report(s), and (iii) a Deemed Acceptance of such report(s) by the Purchaser shall have occurred.

2. The Seller has entered into an Escrow Agreement with Title Guaranty Escrow Services, Inc. ("Escrow"), covering the deposit with the Escrow of all funds paid by the Purchaser under the Sales Contract and the disbursement of the funds by Escrow. In the event that a purchase contract is cancelled, Escrow may charge a cancellation fee on account of escrow services performed not to exceed \$250.00.

3. The Sales Contract requires the Purchaser to pay the Total Purchase Price by a series of payments prior to Closing, as follows: Purchaser may make an initial deposit by check prior to signing the Sales Contract and shall make a deposit when Purchaser signs the Sales Contract. The balance shall be due on or before closing.

4. The Sales Contract provides that the Purchaser's Deposits shall be placed into an interest bearing account with all of the interest to be credited to Purchaser at Closing. Purchaser will pay any processing fee required by Escrow and all costs of setting up, maintaining and closing the account.

5. The Sales Contract provides that closing costs and expenses shall be allocated as follows: Seller shall pay 60% of the premium for the Title Policy, the cost of drafting of conveyance documents, Seller's notary fees, conveyance tax, and 50% of escrow fees. Purchaser shall pay 40% of the premium for the Title Policy, and any additional costs relating to the issuance of extended coverage policy (including a lender's policy), the cost of drafting of any revisions or addenda to the purchase contract, the cost of obtaining Purchaser's consents, if any, Purchaser's notary fees, all recording fees, 50% of escrow fees, and any mortgage fees, and Hawaii General Excise Tax.

6. The Sales Contract provides that Seller shall complete construction of the Project so as to permit normal occupancy of the Apartment covered by the Sales Contract within two (2) years from the date that the Purchaser executes the Sales Contract; provided, however, that such two (2) year period shall be extended for any period of time during which Seller is actually and necessarily delayed in beginning or completing construction if such delay is caused by fire, earthquake, act of God, the elements, war or civil disturbances, litigation, strikes or other labor disturbances, or economic controls making it impossible to obtain the necessary labor or materials, or any other matter or condition beyond Seller's control.

7. The Sales Contract provides that the description of the improvements constituting an Apartment ("Apartment Specifications") shall be negotiated between Seller and Purchaser and will be attached as an exhibit to the Sales Contract.

8. The Sales Contract provides that it may not be assigned by Purchaser, in whole or in part, without the prior written consent of Seller which consent may be withheld by Seller in its sole and absolute discretion. Any assignment of the Sales Contract made without Seller's written consent is void and of no legal effect. Notwithstanding the foregoing, Purchaser may assign its rights under the Sales Contract to affiliated entities for estate planning purposes without the consent of Seller, provided that any such assignment shall not release Purchaser from its obligations under the Sales Contract.

9. The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Project, the sale of the Apartment or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Project which is raised or otherwise asserted after the Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract. The Sales Contract also provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract that is raised or otherwise asserted before Closing need not be submitted to arbitration, and Seller and Purchaser shall be free to pursue such dispute, as otherwise provided herein, in proceedings in a court of competent jurisdiction, provided that any judicial proceedings initiated shall be conducted in Honolulu, Hawaii. Notwithstanding the foregoing, claims by Purchaser, Seller and/or the Association against a contractor for construction defects, as such terms are defined in Hawaii Revised Statutes, Chapter 672E ("Contractor Repair Act"), shall be

handled in accordance with the provisions of the Contractor Repair Act. The dispute resolution procedures set forth in the Sales Contract shall be modified as necessary to comply with the provisions of the Contractor Repair Act.

The foregoing is only a summary of some of the key terms of the Sales Contract. It is incumbent upon a prospective Purchaser to read the full text of the Sales Contract with care.

**EXHIBIT   E**

**SUMMARY OF ESCROW AGREEMENT**

A copy of the executed Escrow Agreement for the Project between Title Guaranty Escrow Services, Inc. ("Escrow") and Developer has been filed with the Commission. The Escrow Agreement provides for the deposit of the funds of a purchaser of an Apartment (a "Purchaser") pursuant to the Sales Contract and also provides for the retention or disbursement of the funds. The Escrow Agreement specifically permits the disbursement of Purchaser's funds under a Sales Contract prior to closing, subject to certain conditions, to pay for certain Project costs, including costs of constructing the Project's buildings, fixtures and other improvements, Developer's architectural, engineering, finance and legal fees, and other incidental expenses of the Project (excluding marketing expenses and brokerage fees relating to the sales of Apartments).

The Escrow Agreement provides in part that any interest earned on money on deposit shall be paid to the parties in accordance with the terms of the Sales Contract. Unless Purchaser has waived or is deemed to have waived the right to a refund, Purchaser shall be entitled to a refund of Purchaser's Deposits held by Escrow, less certain cancellation fees and costs (e.g., escrow cancellation fees, loan processing fees, cost of credit reports, etc.) as provided in the Sales Contract, Escrow Agreement and Chapter 514A, Hawaii Revised Statutes, as amended, if any one of the following occurs:

1. Developer and Purchaser have requested Escrow in writing to return to Purchaser the Purchaser's Deposits held by Escrow; or
2. Developer has notified Escrow of Developer's exercise of the option to cancel or rescind the Sales Contract pursuant to any cancellation or rescission provided therein or available to Developer; or
3. Purchaser has notified Escrow of Purchaser's exercise of Purchaser's right to cancel or rescind the Sales Contract under Hawaii Revised Statutes § 514A-62 or 63, respectively.

By law, the total amount of such cancellation fees shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) so long as the cancellation occurs prior to the time the Sales Contract becomes effective (following issuance of the Final Public Report).

If the Purchaser enters into a Sales Contract pursuant to a Contingent Final Public Report and the Real Estate Commission does not issue an effective date for a Final Public Report by the expiration of the Contingent Final Public Report, and Developer or Purchaser elects to rescind the Sales Contract by giving written notice thereof to the other, with a copy to Escrow, Purchase will be entitled to a refund of Purchaser's Deposits together with all interest earned thereon as provided in the Sales Contract, Escrow Agreement and Hawaii Revised Statutes § 514A-64.5.

Under the Escrow Agreement no disbursement of funds can be made to the Developer until the Sales Contract becomes effective under the provisions of Chapter 514A, Hawaii Revised Statutes.

The foregoing is only a summary of some of the key terms of the Escrow Agreement. It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.