

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer: JAMES MESTANZA and SARAH MESTANZA
Address: 64 Wai Kulu Place, Lahaina, Hawaii 96761

Project Name (\*): KEA KAI FARMS
Address: 64 Wai Kulu Place, Lahaina, Hawaii 96761

Registration No. 5874 (CONVERSION) Effective date: February 13, 2006
Expiration date: March 13, 2007

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.
FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104

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

Required and attached to this report  Not Required - Disclosures covered in 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 is a **CONDOMINIUM PROJECT**, not a subdivision. It does not involve the sale of individual subdivided lots. Where land area beneath and immediately appurtenant to each apartment is designated a **LIMITED COMMON ELEMENT** it is not a legally subdivided lot. Dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

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

1. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property which is zoned Agricultural. Therefore, unless the Purchaser is buying an existing residential dwelling, **THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO 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, on the property. Apartment A is an existing full size farm dwelling containing 1,589.46 square feet of net living area and a garage/workshop consisting of 821.81 square feet (non-habitable), and Apartment B is an existing farm dwelling containing 917 square feet of net living area.

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

3. This condominium project is part of the Mahanalua Nui Subdivision, Phase I. Purchaser should carefully review the Amended and Restated Declaration of Covenants, Conditions and Restrictions dated July 13, 1999, and recorded as Document No. 99-114891, as further amended by instrument dated February 25, 2003, and recorded as Document No. 2003-038050 and other documents related to said subdivision.

4. Under the current zoning ordinance only one full size farm dwelling and one farm dwelling with a living area of 1,000 square feet or less are permitted. Apartment B is designated as the apartment which is subject to the 1,000 square feet limitation. **THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL CONCERNING THE REQUIREMENTS OF A FARM DWELLING AND THE PERMITTED USES OF THE LAND AND DWELLING IN THE AGRICULTURAL ZONE.**

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.**

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: JAMES MESTANZA Phone: (808) 662-8538
SARAH MESTANZA
64 Wai Kulu Place
Lahaina, Hawaii 96761

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): NOT APPLICABLE

Four horizontal lines for listing names of officers and directors.

Real Estate Broker\*: MAUI REAL ESTATE VENTURES, INC. Phone: (808) 270-2900
dba KELLER WILLIAMS REALTY MAUI
1819 South Kihei Road, Suite D-103
Kihei, Hawaii 96753

Escrow: FIRST HAWAII TITLE CORPORATION Phone: (808) 871-7124
33 Lono Avenue, Suite 240
Kahului, Hawaii 96732

General Contractor\*: Not Applicable Phone: (Business)
Name
Business Address

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

Attorney for Developer: Karen Temple Phone: (808) 244-8222
Bodden & Temple, LLLC
24 N. Church Street, Suite 200
Wailuku, Hawaii 96793

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

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

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. **2005-156409**  
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. **4045**  
 Filed - Land Court Condo Map No. \_\_\_\_\_

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

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. **2005-156410**  
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%*	100%
Bylaws	65%	100%
House Rules	---	N/A

\* 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:

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

**Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:	<input type="checkbox"/>	Monthly	<input type="checkbox"/>	Quarterly
	<input type="checkbox"/>	Semi-Annually	<input type="checkbox"/>	Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

For Sub-leaseholds:

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  Canceled  Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

**Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:	<input type="checkbox"/>	Monthly	<input type="checkbox"/>	Quarterly
	<input type="checkbox"/>	Semi-Annually	<input type="checkbox"/>	Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

Other: Note: The County has not approved the subdivision of the units and their limited common elements into individual subdivided lots. They are being sold as condominiums only.

**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: 64 Wai Kulu Place  
Lahaina, Maui, Hawaii 96761

Tax Map Key (TMK): (2) 4-7-9:38

Address  TMK is expected to change because \_\_\_\_\_  
Neither the address nor the TMK are expected to change \_\_\_\_\_.

Land Area: 2.083  square feet  acre(s) Zoning: Agricultural



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: -- The zoning for the Project is Agricultural. Under such zoning livestock may be allowed or kept on the Project.
- No pet shall be a "pest" as defined under HRS §150A-2, or an animal prohibited from importation under applicable sections of Hawaii law.

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>Bedroom/Bath</u>		<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf) (Identify)</u>	
A	1	3	2	1,589.46	487.06 541.58 821.81	garage covered lanai separate free-standing garage/workshop
B	1	2	1	917	288	covered deck

Total Number of Apartments: 2

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

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

Boundaries of Each Apartment: Each apartment is measured horizontally by the distances between the finished exterior surface of perimeter walls, windows and doors, and vertically by the distances between the finished exterior surface (bottom) of its foundation and floor supports and the finished exterior surface of its roof.

Permitted Alterations to Apartments:

Interior: Non-structural interior alterations may be made at any time by the apartment owner, in accordance with applicable law.

Structural Alterations: Subject to the prior approval of the Board of Directors and upon obtaining all necessary government approvals and permits.

All costs associated with alterations shall be at the apartment owner's sole cost and expense.

Apartments Designated for Owner-Occupants Only: **NOT APPLICABLE TO THIS PROJECT.**

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has \_\_\_\_\_ elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 6

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		TOTAL
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>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: Apt. A	<u>4</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
Apt. B	<u>0</u>	<u>2</u>					<u>2</u>
Total Covered & Open:	<u>6</u>		<u>0</u>		<u>0</u>		<u>6</u>

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

\*Each apartment will have the right to park in the limited common element appurtenant to said apartment.  
Apt. A has designated parking in a garage attached to the dwelling and a garage attached to the workshop. Apt. B has no designated parking.

Commercial parking garage permitted in condominium project.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool       Storage Area       Recreation Area

Laundry Area       Tennis Court       Trash Chute/Enclosure(s)

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

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

There are no violations.       Violations will not be cured.

Violations and cost to cure are listed below:       Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

The structural components, mechanical and electrical installations material for the use and enjoyment of each apartment and the Project appear to be in normal working order subject to normal wear and tear.

Pursuant to Hawaii Revised Statutes §514A-40(b)(3), the Declarant hereby states that no representations are made in regard to the expected useful life of the structural components, mechanical and electrical installations material to the use and enjoyment of the Project.

11. Conformance to Present Zoning Code

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	All		
Structures	All		
Lot	Yes		

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

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

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

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

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

- described in Exhibit     A      
 as follows:

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

There are no limited common elements in this project.

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

described in Exhibit  B

as follows:

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: The Project consists of only two apartments.

To assure a fair balance in association management, common interest is allocated equally between the two apartments. Each Apartment shall have appurtenant thereto an equal undivided **50%** interest in the common elements of the Project.

For purposes of determining the proportionate ownership of the land appurtenant to each apartment as tenants in common in the event of condemnation of all or a portion of the land or in the event of termination of the condominium, such allocations shall be made in the following percentages:

EIGHTY-FIVE PERCENT (85%) appurtenant to Apartment A; and  
FIFTEEN PERCENT (15%) appurtenant to Apartment B.

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  October 31, 2005 , and issued by  First Hawaii Title Corporation .

**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 <b>Prior to Conveyance</b></u>
Mortgage dated December 23, 2004, in favor of Countrywide Home Loans, Inc., recorded as Document No. 2004- 263459 in the initial amount of \$900,000	Mortgages will be released prior to conveyance of any apartment to Buyer.  If any said lien is foreclosed prior to conveyance to Buyer all of Buyer's deposits will be refunded immediately by escrow.
Mortgage dated July 8, 2005, in favor of Countrywide Home Loans, Inc., recorded as Document No. 2005- 137689 in the initial amount of \$120,000	

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:

NO WARRANTIES ARE OFFERED.

2. Appliances:

WARRANTIES OFFERED BY MANUFACTURER OF APPLIANCE, IF ANY.

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

All construction of the Project has been completed.

Apartment A was constructed in 2003.

Apartment B was constructed in 2000.

H. **Project Phases:**

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

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

**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 Developer's affiliate  
 self-managed by the Association of Apartment Owners  Other: \_\_\_\_\_

B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

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

C. **Utility Charges for Apartments:**

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

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

## V. MISCELLANEOUS

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

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit E contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 9, 2005  
Exhibit F contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other: Amended and Restated Declaration of Covenants, Conditions and Restrictions For The Mahanalua Nui Subdivision at Launiupoko dated July 13, 1999, as amended by instrument dated February 25, 2003;  
Private Water System Agreement dated September 29, 1992;  
Declaration of Covenants, Reservations and Restrictions dated November 28, 1997;  
Subdivision Agreements (Agricultural Use) dated June 18, 1992, April 8, 1999 and July 7, 2000;  
Agreement for Allocation of Future Subdivision Potential dated ---;  
Deed and Reservation of Rights dated November 28, 1997;  
Declaration of Restrictive Covenants dated November 25, 1998;  
Declaration of Non-Exclusive Perpetual Easements for Roadway Purposes (Roads Within Mahanalua Nui Subdivision) dated July 1, 1999;  
Warranty Deed dated July 27, 1999;  
Agreement between Mestanza and McPhee "Applicant" and McPhee "Owner" and County of Maui "County" dated February 7, 2000;

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 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](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. 5874 filed with the Real Estate Commission on December 27, 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

1. Limitations. Attention is drawn to the fact that, under Maui County zoning and building codes, only one full size farm dwelling and one farm dwelling with a living area of 1,000 square feet or less are permitted. Apartment B is designated as the apartment which is subject to the 1,000 square feet limitation, and may not be expanded unless (i) the owner(s) of Apartment A gives his or her or their prior written consent; or (ii) a dwelling with a larger area may be constructed under applicable zoning and building codes and laws without adversely affecting the ability of Apartment A to build or remodel; or (iii) Apartment B exceeding 1,000 square feet of living area is maintained, repaired or replaced as a permitted “non-conforming” use or structure under the applicable zoning and building codes and laws. **THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL CONCERNING THE REQUIREMENTS OF A FARM DWELLING AND THE PERMITTED USES OF THE LAND AND DWELLING IN THE AGRICULTURAL ZONE.**
2. Separate Water Meters. The water for the condominium is provided by a private water system owned by the Mahanalua Nui Homeowners Association, Inc., a Hawaii nonprofit corporation. Each apartment has a separate water meter for potable and non-potable water. Each apartment owner will be billed separately by the Mahanalua Nui Homeowners Association.
3. Water and Fire Protection. The condominium is served by a dual water system owned by the Mahanalua Nui Homeowners Association, Inc., a Hawaii nonprofit corporation. Said system will provide potable (drinking) and nonpotable (irrigation) water. By legal contract with Pioneer Mill Company, Limited, a Hawaii corporation, the maximum allowable consumption of water may require some limits. For the size of the condominium property, limits will not be less than 2,500 gallons per day or 75,000 gallons per month . While Declarant believes that such capacity is sufficient for normal and reasonable use by each apartment, there are no guarantees. Because the condominium is not served by County of Maui water, there is no assurance that the water supply will be sufficient for fire protection.
4. Mailboxes. Each apartment has its own separate mailbox.
5. Sewer. Each apartment has its own on-site private septic system within its limited common element. The owner of each apartment shall be responsible for operating, maintaining, repairing and replacing its own on-site private septic system, which shall comply with all applicable laws, rules and regulations. Each septic system must comply with design standards and approval requirements of the State of Hawaii Department of Health.

The location of the septic system appurtenant to each apartment is shown on the site plan of the Condominium Map. No representations or warranties are made as to the quality, useful life, replacement cost, operating cost, or maintenance cost of the septic system and appurtenances.

County sewer service is not available.

C. Additional Information Not Covered Above (continued)

6. Mahanalua Nui Subdivision Homeowners Association. The land upon which the condominium project is located (Lot 31-A) is part of The Mahanalua Nui Subdivision, Phase I. The Mahanalua Nui Subdivision has been registered with the State of Hawaii Department of Commerce and Consumer Affairs under Hawaii Revised Statutes Chapter 484, and a Public Offering Statement for the subdivision has been issued. IT IS RECOMMENDED THAT THE BUYER OF EACH CONDOMINIUM UNIT OBTAIN A COPY OF THE MOST RECENT PUBLIC OFFERING STATEMENT AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SUBDIVISION. THE STATEMENT AND DECLARATION CONTAIN MANY IMPORTANT DESCRIPTIONS ABOUT THE SUBDIVISION AS A WHOLE, AS WELL AS THE OPERATIONS AND MANAGEMENT OF THE HOMEOWNERS ASSOCIATION, ITS BUDGETS AND RESERVES.

The owner of Lot 31-A is a member of the Mahanalua Nui Homeowners Association, Inc., a Hawaii nonprofit corporation, which is the association formed for the Mahanalua Nui Subdivision as a whole for the purpose of holding, maintaining, operating and managing, as a common expense, all of the common areas and facilities of the subdivision. These consist of paved roadways, a drainage system, and archeological recreational sites and trails as easements, and public and private parks.

Roadway Lot B-2 (Kai Hele Ku Street) is a privately owned lot and is not part of the Mahanalua Nui Subdivision which provides access from the Mahanalua Nui Subdivision to the state highway, Honoapiilani Highway. Launiupoko Associates, LLC, the owner of Roadway Lot B-2 has granted the Mahanalua Nui Homeowners Association a non-exclusive easement over the access right of way. The Mahanalua Nui Homeowners Association is responsible for the maintenance of this right of way subject to possible costs sharing with other lots served by this access right of way.

Each apartment owner will be a separate member of said Mahanalua Nui Homeowners Association and will be responsible to pay a share of common expenses assessed to each Lot of the subdivision equal to the share assessed against each other Lot (except for water use charges, which, if managed by the Association, will be assessed on an equitable basis by the Association, in addition to any basic system operating charge equally assessed against all Lots), as provided in said Mahanalua Nui Subdivision Declaration of Covenants, Conditions and Restrictions, as amended.

The Amended and Restated Mahanalua Nui Subdivision Declaration of Covenants, Conditions and Restrictions permits any Lot to be divided into two or more separate parcels, condominium units or other divisions each of which shall be capable of being owned and conveyed in fee simple as a separate and discreet unit of ownership.

7. Insurance. Hawaii law requires that the Association of Apartment Owners carry liability insurance on the entire condominium as a common expense. Purchasers are urged to review this requirement with their insurance advisors.
8. Nuisances. Most land near the Project is zoned Agricultural, which may increase the risk of noise, dust, emission and other nuisances. Because said Project is part of the Mahanalua Nui Subdivision, the owners of the Project are deemed to have waived claims with respect to said nuisances by neighboring land owners.

C. Additional Information Not Covered Above (continued)

High voltage power lines exist throughout portions of the area in which the Project exists and may pose a hazard due to strong winds.

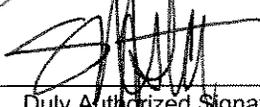
9. No Representations. Developer, nor any salesperson representing Developer, makes any representation about any rental income or rental, or sales services for an apartment. Additionally, Developer, nor any salesperson representing Developer, makes any representation about any income from the apartment or any other economic benefit to be derived from the purchase or ownership of the apartment or tax effect of buying an apartment.
10. Licensed Real Estate Salesman. Pursuant to Sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Developer, James Mestanza is a current and active Hawaii-licensed real estate salesperson, License No. RS-61397, and pursuant to Section 16-99-11(b), HAR, no licensee shall be allowed to advertise "For Sale by Owner," "For Rent by Owner," "For Lease by Owner," or "For Exchange by Owner."
11. Flood Zone. The property is subject to a 100-year flood inundation limitation. Purchasers should consult with the County of Maui regarding any building and use restrictions which may be affected by this limitation. However, this property is not designated in a flood zone.
12. Agricultural Uses. The County of Maui Planning Department has recently adopted a strict enforcement policy requiring agricultural-zoned land to be used for only those agricultural uses permitted by HRS Section 205-4.5 and Maui County Code, Chapter 19.30A. Also, farm plans may be required. Dwellings may only be constructed and used as "farm dwellings." THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL OR THE MAUI COUNTY PLANNING DEPARTMENT CONCERNING THE REQUIREMENTS OF A FARM DWELLING AND THE PERMITTED USES OF THE LAND AND DWELLING IN THE AGRICULTURAL ZONE.
13. Zoning and Land Use Violations. In a condominium, all of the land included in the condominium remains a single, unsubdivided parcel of land for purposes of zoning and land use regulation. If one unit owner violates a regulation, the violation is attributable to both that owner and the innocent owner of each other unit. For example if one owner builds or adds to a structure in a manner which violates height limits, size limits, setbacks, building permit requirements, or flood zone rules, or uses the unit for an unauthorized additional dwelling or short term rental, the violation applies to the entire condominium and the innocent unit owner may be subject to fines or may be denied a building permit as long as the violation remains uncured. THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL CONCERNING THESE IMPORTANT RISKS.
14. Rollback Taxes. The land may be subject to rollback real property taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Director of Finance, County of Maui, for further information.
15. Agreements/Easements on Records. The title is encumbered by several agreements and easements described on Exhibit C. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL FOR ADDITIONAL INFORMATION.

- 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.

**JAMES MESTANZA and SARAH MESTANZA**

\_\_\_\_\_  
 Printed Name of Developer

By:  \_\_\_\_\_ Date 12-9-05  
 Duly Authorized Signatory\* Date

By:  \_\_\_\_\_ Date 12-9-05  
 Duly Authorized Signatory\* Date

JAMES MESTANZA and SARAH MESTANZA, Developer

\_\_\_\_\_  
 Printed Name & Title of Persons Signing Above

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

***\*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**

The common elements of the Project will include the following:

- (a) The Land in fee simple;
- (b) Any pipes, cables, apparatus and other central and appurtenant transmission facilities and installations over, under and across the Project not owned by the service provider, which serve more than one apartment for services such as electricity, light, water, sewer, telephone and television or other signal distribution, if any;
- (c) 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; and
- (d) Any and all tangible personal property, accounts, general intangibles, instruments and money, and any apartment held by or belonging to the Association of Apartment Owners, or its agents, for the administration, maintenance, safety and operation of the common elements of the Condominium Property Regime, or for the common use and benefit of the apartment owners.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof or the apartments except as may be provided in the Condominium Documents and By-Laws.

## **EXHIBIT B**

### **Limited Common Elements**

Certain parts of the common elements, herein called the "limited common elements," or "exclusive limited common elements" are hereby designated and set aside for the exclusive use of the certain apartment or apartments specified, and such apartment or apartments shall have appurtenant thereto easements for the exclusive use of such limited common elements as follows:

(a) Yard Areas. Each apartment shall have appurtenant to it one or more land areas, described and depicted as a Limited Common Element or "Yard Area," as depicted on the Condominium Map. Apartment A has appurtenant to it Yard Area A, consisting of approximately 1.773 acres. Apartment B has appurtenant to it Yard Area B, consisting of approximately 0.310 acre.

The Apartment Owners shall have the right to reallocate and reconfigure the location of the Yard Area appurtenant to their respective apartments upon prior notice to the Board of Directors and appropriate amendment to this Declaration and the Condominium Map. The amendment shall be signed and approved by the owners (and their respective mortgagees if any) delivered to the Board of Directors prior to recordation. The amendment shall be effective only upon the recording of the same in the Bureau of Conveyances. All costs and expenses associated with such amendment, including, but not limited to, attorneys fees, architect/engineering fees and recording costs shall be borne by the owner(s) requesting such amendment.

(b) Mail Boxes. A separate receptacle for delivery of mail ("mail box") is designated for each apartment within the Project, which mailbox is a limited common element appurtenant to each apartment. Mail boxes will be located within the Project as depicted on the Condominium Map. The mailbox designation is the same as each apartment. The exact location of each mail box, and the design, maintenance and use of the mail box, may be further determined under the By-Laws or House Rules, if any.

## EXHIBIT C

### Encumbrances Against Title

A preliminary title report, prepared by First Hawaii Title Corporation as of October 31, 2005, indicates that the following encumbrances presently exist against the title of the land which constitutes Kea Kai Farms condominium project.

1. Any and all real property taxes that may be due and owing.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Free flowage of Launiupoko Stream as shown on Tax Map.
4. 10' Park and Trailways Easement "P" as shown on Tax Map.
5. Lease of Right-of-Way in favor of Maui Electric Company, Limited, and GTE Hawaiian Telephone Company Incorporated, now known as Verizon Hawaii Inc., dated October 13, 1967, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 5893 on Page 226, granting rights-of-way, each twenty-five (25) feet in width, to build, construct, rebuild, repair, maintain and operate pole and wire lines, etc., as may be necessary for the transmission of electricity.
6. Subdivision Agreement (Agricultural Use) dated June 18, 1992, recorded in the said Bureau of Conveyances as Document No. 92-103494, by and between Pioneer Mill Company, Limited, and the County of Maui, through its Department of Public Works, a body politic and corporate, and a political subdivision of the State of Hawaii.
7. Private Water System Agreement dated September 29, 1992, recorded in the said Bureau of Conveyances as Document No. 92-164418, by and between Pioneer Mill Company, Limited, and the Department of Water Supply of the County of Maui.
8. Declaration of Covenants, Reservations and Restrictions dated November 28, 1997, recorded in the said Bureau of Conveyances as Document No. 97-166433.
9. Deed and Reservation of Rights dated November 28, 1997, recorded in the said Bureau of Conveyances as Document No. 97-166434.
10. Declaration of Restrictive Covenants dated November 25, 1998, and recorded in the said Bureau of Conveyances as Document No. 98-186637.

11. Subdivision Agreement (Agricultural Use) dated April 8, 1999, and recorded in the said Bureau of Conveyances as Document No. 99-071687, by and between Launiupoko Associates, LLC, a Hawaii limited liability company, "Owner," and County of Maui, through its Department of Public Works and Waste Management, a body politic and corporate, and a political subdivision of the State of Hawaii.
12. Declaration of Covenants, Conditions and Restrictions for the Mahanalua Nui Subdivision at Launiupoko dated June 1, 1999, recorded in the said Bureau of Conveyances as Document No. 99-102455.

The foregoing Declaration was amended by Amended and Restated Declaration of Covenants, Conditions and Restrictions dated July 13, 1999, recorded in the said Bureau of Conveyances as Document No. 99-114891.

Said Declaration was amended by instrument dated February 25, 2003, recorded in the said Bureau of Conveyances as Document No. 2003-038050.

13. The following items and/or easements, as shown on survey map prepared by Martina W. Jale, Licensed Professional Land Surveyor, Certificate No. 9311, dated December 2, 1998, revised April 19, 1999, May 18, 1999 and May 26, 1999:
  - (a) 100 year inundation limit.
  - (b) Easement E-14 (15-foot wide) for electrical purposes, in favor of Maui Electric Company, Limited, containing an area of 264 square feet, or 0.006 acres, more or less.
  - (c) Easement P-1 (10-foot wide) for park and trailways purposes, in favor of Mahanalua Nui Homeowners Association, containing an area of 5,857 square feet, or 0.134 acres, more or less.
14. Declaration of Non-Exclusive Perpetual Easements for Roadway Purposes (Roads Within Mahanalua Nui Subdivision) dated July 1, 1999, recorded in the said Bureau of Conveyances as Document No. 99-107599.
15. Warranty Deed dated July 27, 1999, recorded in the said Bureau of Conveyances as Document No. 99-122794.

16. Agreement dated February 7, 2000, recorded in the said Bureau of Conveyances as Document No. 2000-025927, by and between James Mestanza, a married man, as to an undivided fifty percent (50%) interest, and Kenneth B. McPhee and Irene McPhee, husband and wife, as Tenants by the Entirety, as to an undivided fifty percent (50%) interest, "Applicant," James Mestanza, a married man, as to an undivided fifty percent (50%) interest, and Kenneth B. McPhee and Irene McPhee, husband and wife, as Tenants by the Entirety, as to an undivided fifty percent (50%) interest, "Owner," and the County of Maui, "County."
17. Subdivision Agreement (Agricultural Use) dated July 7, 2000, recorded in the said Bureau of Conveyances as Document No. 2000-132051, by and between Kenneth B. and Irene McPhee and James and Sarah Mestanza "Owner," and County of Maui, through its Department of Public Works and Waste Management, a body politic and corporate, and a political subdivision of the State of Hawaii.
18. Agreement for Allocation of Future Subdivision Potential dated ---, and recorded in the said Bureau of Conveyances as Document No. 2000-153220.
19. Mortgage dated December 23, 2004, in favor of Countrywide Home Loans, Inc., a corporation organized and existing under the laws of New York, recorded in the said Bureau of Conveyances as Document No. 2004-263459.
20. Mortgage dated July 8, 2005, in favor of Countrywide Home Loans, Inc., a corporation organized and existing under the laws of New York, recorded in the said Bureau of Conveyances as Document No. 2005-137689.
21. Declaration of Condominium Property Regime of Kea Kai Farms, dated June 7, 2005, recorded in the said Bureau of Conveyances as Document No. 2005-156409, and Condominium Map 4045 and any amendments thereto.
18. By-Laws of the Association of Apartment Owners of Kea Kai Farms dated June 7, 2005, recorded in the said Bureau of Conveyances as Document No. 2005-156410.

END OF EXHIBIT "C"

EXHIBIT D

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
A	\$ 75	\$ 900
B	\$ 75	\$ 900
	_____	_____
TOTAL:	\$ 150	\$1,800

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

Utilities and Services

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

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses \$ 10 \$ 120

- Insurance
- Liability Insurance premiums \$130 \$1,560

Reserves(\*)

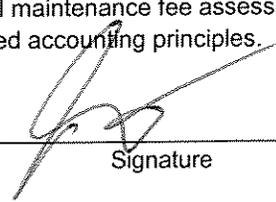
Taxes and Government Assessments

- Audit Fees \$ 10 \$ 120

Other:

TOTAL \$150 \$1,800

I, **JAMES MESTANZA**, as Developer for KEA KAI FARMS 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

12-9-05  
\_\_\_\_\_  
Date

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

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

## EXHIBIT E

### Summary of Sales Contract

The Standard Form Deposit Receipt Offer and Acceptance (DROA) of the Hawaii Association of Realtors and Addendum attached thereto provides for the sale of an individual apartment unit, in fee simple, together with an appurtenant percentage of the common elements of the project, including the land, as more specifically described in the Condominium Declaration.

Some of the terms and conditions set forth in the DROA include:

1. The total purchase price, including an initial deposit to be paid at the time of signing, any additional deposits to be paid and other financing information.
2. The closing date, closing costs, other closing matters, closing and pre-closing procedures and termination provisions, contingency for cash funds, and other financing contingencies.
3. Buyer's funds shall be held in escrow pending closing of the transaction pursuant to an Escrow Agreement, a summary of which is attached to this Public Report.
4. Remedies in the event of default by either party.
5. Seller's disclosures concerning asbestos, hazardous waste and "Megan's Law," and other inspections, maintenance, warranties, termite, rental matters, and brokers services and disclaimers.
6. Buyer's acknowledgment of receiving and reading the final public report for the Project prior to signing the DROA.
7. Buyer's acknowledgment of receiving and reviewing other documents that the Project is subject to, including but not limited to the Declaration, Bylaws, Escrow Agreement, and Condominium Apartment Deed.
8. Seller makes no representation or warranty as to the floor plans and elevations of the apartments contained in the Condominium Map.

An addendum is attached to the DROA which specifically refers to the Condominium Project.

**NOTE:** THIS IS INTENDED ONLY AS A BRIEF SUMMARY OF THE DROA AND ADDENDUM. COMPLETE TERMS AND PROVISIONS ARE CONTAINED IN THE DROA ITSELF, AND IN THE EVENT OF ANY QUESTION OF INTERPRETATION, OR CONFLICT BETWEEN THE TERMS OF THE DROA AND OF THIS SUMMARY, THE TERMS OF THE DROA SHALL APPLY.

NO PORTION OF THIS SUMMARY IS INTENDED TO MODIFY, WAIVE OR CHANGE ANY PROVISION OF THE CONTRACT ITSELF, AND THIS SUMMARY SHALL NOT CONSTITUTE A PORTION OF, OR AN AMENDMENT OR MODIFICATION OF, THE SUBJECT CONTRACT. THE TERMS OF THE ACTUAL CONTRACT BETWEEN SELLER AND BUYER (AND ONLY THOSE TERMS) SHALL APPLY. THEREFORE, A PROSPECTIVE PURCHASER IS URGED TO READ THE ENTIRE DROA, CAREFULLY AND IN DETAIL, AND TO CONSULT WITH HIS OR HER OWN ADVISORS IF ANY QUESTIONS EXIST, BEFORE SIGNING THE DROA.

## **EXHIBIT F**

### **Summary of Escrow Agreement**

An escrow agreement provides the terms under which the deposits by a buyer pursuant to a sales contract between the Developer as seller and any prospective buyer will be held and disbursed by a neutral party (“Escrow”).

Some of the standard terms and conditions of the Escrow Agreement are summarized briefly below. Complete terms and provisions are contained in the Escrow Agreement itself, and in the event of any question of interpretation, or conflict between the terms of the Agreement and of this summary, the terms of the Agreement shall apply.

1. SALES CONTRACTS AND PAYMENTS. Seller/Developer will have each Buyer sign a sales contract and deliver it to Escrow together with Buyer’s first deposit against the purchase price. Buyer will make all other payments of the purchase price required in the sales contract to Escrow.
2. COLLECTION NOTICES. Escrow will inform Buyer of any further payments and when they are due under the sales contract.
3. REFUNDS. Escrow will make any refunds as directed by Seller and Buyer in writing as determined by the sales contract, subject to any deduction by Escrow of “cancellation fees” as permitted by the sales contract and the Condominium Law, unless the terms of the Escrow Agreement or Seller instructed otherwise.
4. DEFAULT. The Escrow Agreement also establishes procedures for the retention and disbursement of the Buyer’s funds when a default occurs under the sales contract.
5. CLOSING. Escrow will arrange for the Buyer to sign all necessary documents, and recordation of documents in the appropriate registration system. Escrow will disburse all money that Escrow has received as required by the sales contract.
6. STATUTORY PROVISIONS CONTROL. Anything in the Contract notwithstanding, the provisions of Chapter 514A of the Hawaii Revised Statutes (Condominium Property Act), if in conflict with the Escrow Agreement, shall control.

**NOTE: THIS IS INTENDED ONLY AS A BRIEF SUMMARY OF THE ESCROW AGREEMENT. NO PORTION OF THIS SUMMARY IS INTENDED TO MODIFY, WAIVE OR CHANGE ANY PROVISION OF THE ESCROW AGREEMENT ITSELF, AND THIS SUMMARY SHALL NOT CONSTITUTE A PORTION OF OR AN AMENDMENT OR MODIFICATION OF THE AGREEMENT. THE ESCROW AGREEMENT CONTAINS VARIOUS OTHER IMPORTANT PROVISIONS AND ESTABLISHES CERTAIN CHARGES WHICH THE BUYER SHOULD KNOW. THE TERMS OF THE ACTUAL AGREEMENT BETWEEN ESCROW AND THE SELLER/DEVELOPER (AND ONLY THOSE TERMS) SHALL APPLY.**