

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Kapolei Industrial Court LLC
Address 307 Lewers Street, Floor 7, Honolulu, Hawaii 96815

Project Name (\*): KAPOLEI INDUSTRIAL COURT
Address: 1030 Opule Street, Kapolei, Hawaii 96707

Registration No. 5928 Effective date: March 13, 2006
Expiration date: April 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. A Final Public Report will be issued by the developer when complete information is filed.

x FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission. [x] No prior reports have been issued. [ ] This report supersedes all prior public reports. [ ] This report must be read together with

SUPPLEMENTARY: (pink) This report updates information contained in the: [ ] Preliminary Public Report dated: [ ] Final Public Report dated: [ ] Supplementary Public Report dated:

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

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

Required and attached to this report       Not Required - Disclosures covered in this report.  
See Exhibit "F"

**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:

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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: Kapolei Industrial Court LLC Phone: (808) 523-9702  
 Name\* (Business)  
307 Lewers Street, Floor 7  
 Business Address  
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):

Scott Mitchell, member  
Gulsons Kapolei LLC, member  
 \_\_\_\_\_  
 \_\_\_\_\_

Real Estate Broker\*: Colliers Monroe Friedlander, Inc. Phone: (808) 524-2666  
 Name (Business)  
220 South King Street, Suite 1800  
 Business Address  
Honolulu, Hawaii 96813

Escrow Title Guaranty Escrow Services, Inc. Phone: (808) 521-0211  
 Name (Business)  
235 Queen Street, 1st Floor  
 Business Address  
Honolulu, Hawaii 96813

General Contractor\*: Maryl Pacific Construction, Inc. Phone: (808) 545-2920  
 Name (Business)  
55 Merchant Street, Suite 2900  
 Business Address  
Honolulu, Hawaii 96813

Condominium Managing Agent\*: Hawaiiana Management Company, Ltd. Phone: (808) 593-9100  
 Name (Business)  
711 Kapiolani Boulevard, Suite 700  
 Business Address  
Honolulu, Hawaii 96813

Attorney for Developer: Law Offices of Wesley Y.S. Chang Phone: (808) 534-4803  
 Name (Business)  
55 Merchant Street, Suite 2800  
 Business Address  
Honolulu, Hawaii 96813  
 Attn: Brad Y.C. Wong, Esq.

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

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

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

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

The Declaration for this condominium is:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____	
			Book _____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>3369659</u>	

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

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

The Condominium Map for this condominium project is:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances Condo Map No. _____		
<input checked="" type="checkbox"/>	Filed -	Land Court Condo Map No. <u>1763</u>		

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

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

The Bylaws for this condominium are:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____	
			Book _____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>3369660</u>	

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





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: 1030 Opule Street Tax Map Key (TMK): (1) 9-1-075-015  
Kapolei, Hawaii 96707

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

Land Area: 2.149  square feet  acre(s) Zoning: I-2 Intensive Industrial District

as described in Exhibit "I"

Fee Owner: Kapolei Industrial Court LLC  
Name  
307 Lewers Street, Floor 7  
Address  
Honolulu, Hawaii 96815

Lessor: n/a  
Name  
Address

C. **Buildings and Other Improvements:**

1.  New Building(s)  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion

2. Number of Buildings: 1 Floors Per Building: 1  
 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 type="checkbox"/> Residential	_____	<input 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 checked="" type="checkbox"/> Industrial	<u>8</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<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

5. Special Use Restrictions:

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

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

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

Other: Storage of combustible materials is specifically prohibited.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net <del>Living</del> Area (sf)*	Net Other Area (sf)	(Identify)
all same	<u>8</u>	<u>1/2 bath</u>	<u>5,500</u>	<u>-</u>	<u>-</u>
	<u>(See Exhibit "A" attached hereto)</u>				

Total Number of Apartments: 8

\* 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:

See Exhibit "B" attached hereto.

Permitted Alterations to Apartments:

Each unit owner shall have the right, at such unit owner's sole cost and expense but without the consent or joinder of any other unit owner, to alter, restore, demolish, renovate, improve, construct or reconstruct such owner's unit, to construct any additional improvements or to make structural alterations or additions to such owner's unit.

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

7. Parking Stalls:

Total Parking Stalls:	<u>70</u>			
	<u>Regular</u>	<u>Compact</u>	<u>Tandem</u>	
	<u>Covered</u>	<u>Covered</u>	<u>Covered</u>	<u>TOTAL</u>
	<u>Open</u>	<u>Open</u>	<u>Open</u>	
Assigned (for each unit)	<u>64</u>	<u>      </u>	<u>      </u>	<u>64</u>
Guest	<u>6</u>	<u>      </u>	<u>      </u>	<u>6</u>
Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other: _____	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Covered & Open:	<u>70</u>	<u>      </u>	<u>      </u>	<u>70</u>

Each apartment will have the exclusive use of at least 8 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 "A" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool                       Storage Area                       Recreation Area

Laundry Area                       Tennis Court                       Trash Chute/Enclosure(s)

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

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

There are no violations.                       Violations will not be cured.

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

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

11. Conformance to Present Zoning Code

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

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

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

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

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

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

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

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

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

described in Exhibit   "C"  .

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 "D".

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 "A".

as follows:

- 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 "E" describes the encumbrances against the title contained in the title report dated February 16, 2006 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.

[X] 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>
---------------------	--

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements: None

2. Appliances: None

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

Estimated date of completion is March 30, 2006.

H. **Project Phases:**

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

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

IV. CONDOMINIUM MANAGEMENT

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

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

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

not affiliated with the Developer  the Developer or 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 "F" 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 water usage for landscaping purposes; refuse collection



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 All documents listed in Exhibit "E" hereto.

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

Website to access official copy of laws: [www.capitol.hawaii.gov](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. 5928 filed with the Real Estate Commission on February 28, 2006.

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**

Scott L. Mitchell, one of the members of the Developer, is affiliated with the Project's real estate broker.

The land underlying the Kihei Commercial Plaza is subject to that certain Kapolei Business Park Declaration of Covenants, Conditions and Restrictions (the "KBP Declaration") summarized in Exhibit "J".

Kapolei Industrial Court's share of the maintenance assessments payable to the association formed pursuant to the KBP Declaration shall be a common expense and included as part of each unit owner's monthly fees and the Association of Unit Owners of Kapolei Industrial Court, acting through its officers and its Board of Directors, shall be the exclusive representative of all Kapolei Industrial Court unit owners and shall have the right to cast all votes for the owner of the land underlying Kapolei Industrial Court at all meetings of the association formed pursuant to the KBP Declaration.



Exhibit "A"

Description of the Units

KAPOLEI INDUSTRIAL COURT CONDOMINIUM PROJECT

Unit Number	Approximate Net Area (sq. ft.)	Percentage Common Interest	Reserved Parking Stalls
1	5,500	12.5%	23, 24, 25, 28, 29, 30, 31, 32
2	5,500	12.5%	1, 2, 3, 20, 21, 22, 26, 27
3	5,500	12.5%	4, 5, 6, 7, 8, 17, 18, 19
4	5,500	12.5%	9, 10, 11, 12, 13, 14, 15, 16
5	5,500	12.5%	39, 40, 41, 42, 43, 44, 48, 49
6	5,500	12.5%	45, 46, 47, 50, 51, 68, 69, 70
7	5,500	12.5%	52, 53, 54, 63, 64, 65, 66, 67
8	5,500	12.5%	55, 56, 57, 58, 59, 60, 61, 62

Visitor Parking Stalls are listed as follows:

33            34            35H            36H            37H            38H

H = Handicapped Accessible Stall

## **Exhibit "B"**

### **Boundaries of Each Unit**

The respective Units shall not be deemed to include the exterior surfaces of the perimeter or party walls, the interior load-bearing walls, the exterior surfaces of all exterior walls, the exterior surfaces of the floors, ceilings and roofs for each Unit, or any pipes, wires, conduits or other utility lines running through such Unit which are utilized for or serve more than one (1) Unit, the same being deemed common elements as provided herein.

Subject to the foregoing, each Unit shall be deemed to include the following: all of the walls and partitions which are not load bearing within its perimeter or party walls; the inner surfaces of all walls, floors, ceilings and roofs; the doors, door frames, and louvers above such door frames, if any, windows, window frames of each such Unit; and all fixtures in each such Unit.

## Exhibit "C"

### Common Elements

1. The land described in Exhibit "I".
2. All foundations, columns, girders, beams, floor slabs, supports, perimeter and load-bearing walls (except for the inner surfaces within each Unit), roofs, walkways, entrances and exits of the building.
3. All yards, courtyards, grounds, fences, landscaping, refuse and like facilities.
4. All walkways, driveways, parking area entryways and exitways, and all parking stalls, as designated on the Condominium Map.
5. All central and appurtenant installations for services such as power, lights, telephone, gas, hot and cold water lines, television lines, sewage disposal and other utilities (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in the Units), and all tanks, pumps, motors, fans, ducts, meters, sub-meters, check meters and other apparatus and installations existing for, or in the building for common use or for measuring the consumption of utilities.
6. 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, and normally in common use and not part of any Unit.

## **Exhibit "D"**

### **Limited Common Elements**

The sewer lateral servicing such Unit and the parking stalls listed in Exhibit "A" and designated for each Unit shall be appurtenant to and for the exclusive use of each such Unit, except for the parking stalls designated in Exhibit "A" as visitor parking stalls. Loading Area 1 as shown on the Condominium Map shall be a limited common element set aside and reserved for the exclusive use of Units 1, 2, 3 and 4. Loading Area 2 as shown on the Condominium Map shall be a limited common element set aside and reserved for the exclusive use of Units 5, 6, 7, and 8.

All costs of every kind pertaining to each limited common element, including but not limited to, costs of maintenance, repair, replacements, additions and improvements, shall be charged to and payable by the owners of the Units to which said limited common elements are appurtenant.

## Exhibit "E"

### Encumbrances Against Title

1. SETBACK (25 feet wide)

SHOWN : on Map 645, as set forth by Land Court Order No. 112041, filed June 4, 1993

2. DESIGNATION OF EASEMENT "3779"

PURPOSE : sewer

SHOWN : on Map 645, as set forth by Land Court Order No. 112041, filed June 4, 1993

3. DESIGNATION OF EASEMENT "3780"

PURPOSE : electrical and communication

SHOWN : on Map 645, as set forth by Land Court Order No. 112041, filed June 4, 1993

4. Reservations, covenants, conditions and restrictions contained in KAPOLEI BUSINESS PARK DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS

DATED : May 28, 1993

FILED : Land Court Document No. 2030298

Said above Declaration was amended by instruments dated April 22, 1994, filed as Land Court Document No. 2143431, and dated June 3, 2004, filed as Land Court Document No. 3118512, and supplemented by instruments dated November 6, 2000, filed as Land Court Document No. 2662803, and dated May 3, 2004, filed as Land Court Document No. 3113276, and dated June 3, 2004, filed as Land Court Document No. 3118507.

The Declarant's interest was assigned by mense assignments assigned by CAMPBELL HAWAII INVESTOR LLC, a Hawaii limited liability company to KBP LAND PARTNERS, LLC, a Delaware limited liability company, dated June 3, 2004, filed as Land Court Document No. 3118513.

Said Declaration was Supplement by instrument dated February 14, 2005, filed as Land Court Document No. 3230994.

5. DESIGNATION OF EASEMENT "5119"

PURPOSE : electrical  
SHOWN : on Map 742, as set forth by Land Court Order No. 118823, filed  
November 28, 1994

6. GRANT

TO : HAWAIIAN ELECTRIC COMPANY, INC. and GTE HAWAIIAN  
TELEPHONE COMPANY INCORPORATED, now known as  
VERIZON HAWAII INC.

DATED : March 21, 2000  
FILED : Land Court Document No. 2621916  
GRANTING: an easement over said Easements "3780" and "5119"

7. Reservations, covenants, conditions and restrictions contained in TRUSTEES  
LIMITED WARRANTY DEED WITH USE RESTRICTIONS, COVENANTS AND  
RESERVATION OF RIGHTS (KAPOLEI BUSINESS PARK)

DATED : January 2, 2002  
FILED : Land Court Document No. 2766591

The foregoing includes, but is not limited to, matters relating to water rights.

8. GRANT

TO : TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES  
CAMPBELL, DECEASED

DATED : June 3, 2004  
FILED : Land Court Document No. 3118509  
GRANTING : a perpetual nonexclusive easement for communication purposes  
over Easement "3780"

9. GRANT

TO : TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES  
CAMPBELL, DECEASED

DATED : June 3, 2004  
FILED : Land Court Document No. 3150609  
GRANTING : a nonexclusive easement for sewer purposes over, upon, across, under  
and through Easement "3779"

10. Reservations, covenants, conditions and restrictions contained in TRUSTEES LIMITED WARRANTY DEED WITH USE RESTRICTIONS, COVENANTS AND RESERVATION OF RIGHTS (KAPOLEI BUSINESS PARK)

DATED : November 18, 2005  
FILED : Land Court Document No. 3369659

11. Reservations, covenants, conditions and restrictions contained in DECLARATION OF CONDOMINIUM PROPERTY REGIME KAPOLEI INDUSTRIAL COURT

DATED : December 7, 2005  
FILED : Land Court Document No. 3118509  
MAP : 1763, and any amendments thereto

12. Reservations, covenants, conditions and restrictions contained in BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF KAPOLEI INDUSTRIAL COURT

DATED : December 7, 2005  
FILED : Land Court Document No. 3369660

**Exhibit "F"**

**Disclosure Abstract**

**KAPOLEI INDUSTRIAL COURT**

REGISTRATION NO. 5928  
DISCLOSURE ABSTRACT AS OF FEBRUARY 23, 2006

1. Name and Address of Project (the "Project"):  
  
Kapolei Industrial Court  
1030 Opule Street  
Kapolei, Hawaii 96707
  
2. Name and Address of Developer (the "Developer"):  
  
Kapolei Industrial Court LLC  
307 Lewers Street, Floor 7  
Honolulu, Hawaii 96815  
Ph. 523-9702
  
3. Name and Address of Managing Agent of Project (the "Managing Agent"):  
  
Hawaiiiana Management Company, Ltd.  
711 Kapiolani Boulevard, Suite 700  
Honolulu, Hawaii 96813
  
4. Name and Address of Broker:  
  
Colliers Monroe Friedlander, Inc.  
220 South King Street, Suite 1800  
Honolulu, Hawaii 96813
  
5. Maintenance Fees: The following documents are attached hereto:  
  
Exhibit "1": Estimated Monthly and Annual Maintenance Fees  
  
Exhibit "2": Estimated Maintenance Fee Disbursements

The Managing Agent has certified that these exhibits have been prepared based on generally accepted accounting principles. Note, however, that the Estimated Monthly and Annual Maintenance Fees do not reflect the revenues, if any, derived from the Project. In addition, the Developer advises all purchasers that the maintenance fees of a condominium project are difficult to estimate prior to actual operation of the Project. Even if maintenance

fees have been accurately estimated, such fees will tend to increase in an inflationary economy and as the improvements age. The estimated maintenance fees are based on the latest information available to the Developer and the Managing Agent and are subject to revision based on actual costs for items enumerated. Maintenance fees can vary depending on services desired by unit owners. Each buyer should carefully review the attached exhibits.

6. Warranties.

THE DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE UNIT, COMMON ELEMENTS, OR OTHER PRODUCTS, OR ANYTHING INSTALLED IN OR UPON THE PREMISES OR USED IN CONNECTION WITH THE PROJECT IN ANY MANNER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

The closing of the sale of the Unit shall constitute the assignment by the Developer to a purchaser of any and all warranties given the Developer by the contractor for the Project and by any subcontractors or materialmen, including the contractor's guarantee of materials and workmanship against faulty or deficient materials and installation for a period of one (1) year after substantial completion of the Unit and the benefit of such warranties shall accrue to the purchaser on closing without further instruments or documents. The Developer agrees to cooperate with the purchaser during the effective period of any such warranties in asserting any claims based on such warranties and shall comply with all applicable laws requiring notice of the expiration of such warranties.

7. Use of Units. The Project consists of eight (8) commercial units (each a "Unit", and collectively, the "Units"). Units may be used only for industrial warehousing purposes, as permitted by the State of Hawaii statutes and rules and regulations and City and County of Honolulu's ordinances, and subject to such limitations as may be contained in (i) the Declaration of Condominium Property Regime Kapolei Industrial Court, (ii) the Bylaws of the Association of Unit Owners of Kapolei Industrial Court, (iii) the Deed for the individual Unit, (iv) the Kapolei Industrial Court Deposit Receipt and Sales Contract for the individual Unit, (v) the Kapolei Industrial Court Rules and Regulations, and (vi) the Kapolei Business Park Declaration of Covenants, Conditions and Restrictions. Copies of the foregoing documents are on file with the Real Estate Branch of the Department of Commerce and Consumer Affairs of the State of Hawaii. Storage of combustible materials is specifically prohibited.

8. Extent of Commercial Development. The Project consists entirely of units intended for commercial use only.

**END OF DISCLOSURE ABSTRACT**



# Estimated Fee Disbursement

	Monthly	Annually
<b>UTILITIES</b>		
Water Irrigation	\$400.00	\$4,800.00
Water Units	\$400.00	\$4,800.00
Sewer	\$480.00	\$5,760.00
Electricity	\$10.00	\$120.00
<b>MAINTENANCE</b>		
Landscape Mince	\$500.00	\$6,000.00
Tree Trimming	\$25.00	\$300.00
Building Mtnce/Rptrs	\$100.00	\$1,200.00
Electrical/Lighting	\$10.00	\$120.00
Refuse	\$0.00	\$0.00
Plumbing	\$25.00	\$300.00
Storm Drain Cleaning	\$50.00	\$600.00
Asphalt Repairs	\$0.00	\$0.00
Equipment Repairs	\$10.00	\$120.00
Fire Control	\$10.00	\$120.00
<b>PROFESSIONAL SERVICES</b>		
Management/Acct'g	\$1,032.00	\$12,384.00
Tax return prep/audit	\$55.00	\$660.00
Security	\$250.00	\$3,000.00
Admin. Supplies & Services	\$50.00	\$600.00
Design Review Requests	\$0.00	\$0.00
Legal	\$25.00	\$300.00
<b>TAXES &amp; GOV't</b>		
Real Property Taxes	\$0.00	\$0.00
General Excise Tax	\$5.00	\$60.00
Condo Registration	\$7.00	\$84.00
Master Association Dues	\$200.00	\$2,400.00
<b>INSURANCE</b>		
Property Insurance	\$640.00	\$7,680.00
CGLiability	\$25.00	\$300.00
Crime/Bond	\$50.00	\$600.00
Umbrella Liability	\$60.00	\$720.00
Non Owned Auto Liability	\$50.00	\$600.00
Director & Officer Liability	\$100.00	\$1,200.00
<b>RESERVES</b>	\$200.00	\$2,400.00
<b>Total Disbursements</b>	<b>\$4,769.00</b>	<b>\$57,228.00</b>
Divided by # of units	8	8
<b>Average Monthly Mfee/unit</b>	<b>\$596.13</b>	<b>\$7,153.50</b>

I, Phyllis Kacher, as agent for/and/or employed by Hawaiiana Management Company, the condominium managing agent for Kapolei Industrial Court 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.

*Phyllis Kacher*  
Signature

2-23-06  
Date

Pursuant to 514A-83.6, Hawaii Revised Statutes, 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. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

Subscribed and sworn to  
Before me this 23rd day  
of February 2006.

*Bruce Hase*  
Notary Public, State of Hawaii  
Typed or Printed Name: Bruce Hase  
My commission expires: 3-6-06

## Exhibit "G"

### Summary of Deposit Receipt and Sales Contract

The specimen Deposit Receipt and Sales Contract ("DRSC") contains, among others, the following terms and provisions (which may be modified or otherwise limited by provisions not summarized):

1. The Purchase Price shall be paid in three (3) payments, the last of which shall be paid to the Escrow Agent, subject to other terms, prior to the Closing Date which date shall be a date specified by Seller in a written notice given to Buyer.
2. The Purchase Price does not include the Project start-up fee, any maintenance fees for the Unit, closing costs, prorations, estimated property taxes, and additional costs payable by Buyer under the DRSC.
3. Buyer, at its expense, shall have thirty (30) days from the execution date of the DRSC (the "Due Diligence Period") within which to review and in Buyer's sole and absolute discretion approve or disapprove of the Project Documents. In the event that, on or prior to the end of the Due Diligence Period, Buyer elects to proceed with the purchase of the Property, Buyer shall give written notice to Seller and to Escrow Agent of Buyer's intention to proceed with the purchase of the Property (the "Notice to Proceed") and shall accompany such Notice to Proceed with immediately available funds in the amount of Payment B. Payment A and Payment B shall become nonrefundable on the date of such Notice to Proceed. In the event Buyer shall fail to provide such Notice to Proceed to Seller and Escrow Agent on or before the end of the Due Diligence Period, Buyer shall be conclusively deemed to have disapproved of all matters and items pertaining to the Property and to have terminated this Agreement. Buyer shall then execute such documents as Escrow Agent shall require to cancel escrow and evidence such termination. Upon the execution of such documents by Buyer, Escrow Agent shall return Payment A to Buyer together with interest accrued thereon, if any, and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of this Agreement. Seller shall also execute such documents if requested by Escrow Agent.
4. Until (i) the Real Estate Branch of the Department of Commerce and Consumer Affairs of the State of Hawaii has issued an effective date for a Contingent Final Public Report (or if a Contingent Final Public Report is not issued, the Final Public Report) for the Project; (ii) Buyer has received for or is deemed to have received for a Contingent Final Public Report (or the Final Public Report); (iii) Buyer has waived or is deemed to have waived Buyer's right to cancel under Hawaii Revised Statutes Section 514A-62; and (iv) Buyer delivers to Seller a Notice to Proceed, the DRSC does not constitute a binding sales contract and may be terminated by either Buyer or Seller by written notice of such termination, delivered to the other party.

5. Buyer has received a copy of the public report(s) for the Project; and Buyer acknowledges that Buyer has had a reasonable opportunity to read the Declaration, the Bylaws, the Rules and Regulations, the form of conveyance deed, the Escrow Agreement and the Kapolei Business Park Declaration of Covenants, Conditions and Restrictions (the "KBP Declaration"), and to examine the Project plans; and Buyer accepts such documents and plans with such changes and modifications as the Project architect may deem necessary.
6. Within thirty (30) days after the date Seller accepts the DRSC, Buyer must submit to Seller evidence of Buyer's ability to pay the Purchase Price.
7. If Buyer will be utilizing mortgage financing to pay a portion of the Purchase Price, then Buyer shall, within ten (10) days after receiving notice of Seller's execution of the DRSC, apply for such loan to one (1) or more lending institutions of Buyer's choice, for loan eligibility and credit approval necessary therefor. Buyer shall, within thirty (30) days following the date of Seller's execution of the DRSC, provide Seller with evidence reasonably satisfactory to Seller of Buyer's prequalification for a loan in an amount, which together with Buyer's own funds, will be sufficient to enable Buyer to purchase the Unit. Seller shall have no obligation to arrange for Buyer's mortgage financing. Buyer shall promptly sign and deliver all documents and diligently take all steps necessary to obtain such loan. An executed copy of any mortgage commitment obtained by Buyer shall be delivered to Seller and if, notwithstanding Buyer's good faith efforts, such a commitment is not received by Seller within thirty (30) days after application, or if, notwithstanding Buyer's good faith efforts, such commitment is subsequently withdrawn, then Seller may, at Seller's option, terminate the DRSC, and upon such termination, Seller shall cause Escrow Agent to refund to Buyer the amounts already deposited, together with interest accrued thereon, less any escrow cancellation fee and other costs actually incurred by Seller or Buyer's lending institution in processing the loan application. Obtaining a mortgage commitment shall be Buyer's responsibility, and Buyer shall not be relieved of Buyer's obligations hereunder if such commitment is subsequently canceled or withdrawn.
8. If Buyer will be paying the entire Purchase Price in cash, then Buyer shall, within ten (10) days after receiving notice of Seller's execution of the DRSC, submit to Seller a financial statement, certified by Buyer to be true and accurate, in form and content sufficient to disclose fully Buyer's financial circumstances as of such date, and any other form reasonably required by Seller. Seller shall have thirty (30) days after receipt of such financial statement either to accept said statement or rescind and terminate the DRSC at Seller's sole discretion and, upon such termination, Seller shall cause Escrow Agent to refund to Buyer any amounts already deposited, together with interest accrued thereon, and less the cost of any credit report, the escrow cancellation fee and other costs actually incurred in reviewing such financial statement.
9. All payments made by Buyer under the DRSC will be deposited with Escrow Agent under the terms of the Escrow Agreement.

10. Seller has reserved the right to make certain modifications to the Declaration, the Bylaws, the Rules and Regulations, the Condominium Map, the form of conveyance deed, and other documents as may be required by law, any title insurance company, any institutional mortgagee, or any governmental agency, or as Seller otherwise deems appropriate.
11. The estimates of monthly maintenance changes and assessments for the Units set forth in the public reports for the Project are not intended to be and do not constitute any representation or warranty by Seller.
12. After Buyer has receipted for or is deemed to have receipted for a Contingent Final Public Report (or the Final Public Report), and Buyer has waived or is deemed to have waived Buyer's right to cancel under HRS Section 514A-62, Buyer may terminate the DRSC only if there is a material change in the Project which directly, substantially and adversely affects the use or value of (1) Buyer's Unit or appurtenant limited common elements, or (2) those amenities of the Project available for Buyer's use, Buyer shall have the right to rescind the sale made under this Agreement and to receive a prompt and full refund of any monies paid or deposited.
13. Seller may terminate the DRSC if (a) Buyer's initial deposit check is returned for insufficient funds or (b) Buyer (or any one (1) of them if Buyer is more than one (1) person) should die prior to closing, (c) Buyer fails to communicate accurately the status of Buyer's loan application, if applicable, or (d) Buyer makes any misrepresentation to Seller under the DRSC, THEN, in any such event, Seller reserves the right to instruct Escrow Agent to return Buyer's check or deposits, together with interest accrued thereon, and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of the DRSC. Until Seller so elects to cancel this DRSC, the DRSC shall remain in full force and effect.
14. If Buyer shall default in any payment when required, or fail to perform any other obligations required of Buyer under the DRSC, and shall fail to cure such default within ten (10) days after receipt of written notice thereof from Seller, Seller may, at Seller's option, terminate the DRSC by written notice to Buyer. As a reasonable estimate of Seller's damages resulting from such default, the parties agree that the sums deposited by Buyer under the DRSC prior to such default, together with interest accrued thereon, shall belong to Seller as liquidated damages. At Seller's option, Seller may also pursue any other remedy at law or in equity for specific performance, damages or otherwise. All costs, including reasonable attorneys' fees, incurred by reason of default by Buyer shall be borne by Buyer.
15. Buyer shall in no event take possession of or enter the Unit prior to the Closing Date and full compliance by Buyer with the terms of the DRSC. Violation of this provision shall be deemed a material breach of contract, and Buyer agrees that Seller shall have the right to remove Buyer from the premises by any lawful means.

16. Risk of loss to the Unit and percentage interest in the common elements shall be borne by Seller until the sooner of the Closing Date or the date Buyer takes possession, and thereafter, such risk of loss shall be borne by Buyer.
17. The Land is subject to the KBP Declaration. Accordingly, the Land's share of the maintenance assessments payable to the association formed under the KBP Declaration (the "**KBP Association**") shall be a common expense and included as part of Buyer's monthly fees and that the Association, acting through its officers and its Board of Directors, shall be the exclusive representative of all unit owners and shall have the right to cast all votes for the owner of the Land at all meetings of the KBP Association.

Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings give them under the DRSC.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE DRSC. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF BUYER'S RIGHTS AND OBLIGATIONS UNDER THE DRSC, BUYER MUST REFER TO THE DRSC TO DETERMINE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE DRSC, THE DRSC WILL CONTROL.

## Exhibit "H"

### Summary of Escrow Agreement

The Condominium Escrow Agreement ("Escrow Agreement") dated (undated), made by and between Title Guaranty Escrow Services, Inc. ("Escrow Agent"), and Kapolei Industrial Court LLC ("Seller"), contains among other provisions the following (which may be modified or otherwise limited by provisions not summarized herein):

1. Sales Contracts Deposited in Escrow. As and when Seller enters into a sales contract with a purchaser for sale of a unit in the Kapolei Industrial Court condominium project (the "Project"), Seller shall deliver an executed copy of said sales contract to Escrow Agent. Each sales contract shall contain the correct names and addresses of the purchasers, shall require that all payments to be made thereunder shall be made to Escrow Agent and shall be accompanied by the initial deposit required thereunder.
2. Receipt of Funds by Escrow. In accordance with written instructions from Seller that are acceptable to Escrow Agent, Escrow Agent shall deposit all funds so received, within a reasonable time of their receipt by Escrow Agent and in reasonably convenient sums, in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State of Hawaii. Any interest earned on funds deposited in escrow shall accrue to the credit of the purchaser.
3. Conditions to be Met Prior to Disbursement of Funds in Escrow. No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled:
  - (a) the Real Estate Branch of the Department of Commerce and Consumer Affairs of the State of Hawaii shall have issued an effective date for a Final Report on the Project;
  - (b) the purchaser shall have been given a copy of the Final Public Report and shall have acknowledged receipt of the same or shall have been deemed to have acknowledged receipt of same and shall have waived or shall have been deemed to have waived the purchaser's right to cancel the sales contract; and
  - (c) Seller or Seller's attorney shall have delivered a written opinion to Escrow Agent that purchaser's sales contract has become effective; and that the requirements of Sections 514A-62 and 514A-63, Hawaii Revised Statutes ("HRS"), have been met.
4. Return of Purchaser's Funds and Documents. A purchaser shall be entitled to a return of such purchaser's funds and Escrow Agent shall pay such funds to such purchaser, together with any interest accrued, but less a cancellation fee commensurate with the work

done by Escrow Agent prior to such cancellation, up to a maximum of \$250.00, to a purchaser if:

(a) Seller and purchaser shall have requested Escrow Agent in writing to return to purchaser the funds of purchaser held hereunder by Escrow;

(b) Seller shall have notified Escrow Agent of Seller's exercise of the option to cancel and rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Seller;

(c) The purchaser shall have notified Escrow Agent of purchaser's exercise of purchaser's right to cancel the sales contract pursuant to Section 514A-62, HRS; or

(d) The purchaser shall have notified Escrow Agent of purchaser's exercise of purchaser's right to rescind the sales contract pursuant to Section 514A-64, HRS.

5. Unclaimed Funds. Escrow shall give each purchaser entitled to a return of funds notice thereof by registered, certified or regular mail, postage prepaid, addressed to such purchaser at the purchaser's address shown on the sales contract or any address later made known in writing to Escrow Agent by such purchaser. If such purchaser shall not have claimed such refund within sixty (60) days, Escrow Agent shall deposit such funds into a special account in a bank or other depository selected by Escrow Agent, in the name of Seller, as trustee for the benefit of such purchaser. After notifying the purchaser of all such facts at the purchaser's address as described above and delivering all partially executed conveyance documents to Seller, Escrow Agent shall thereupon be released from any further duties or liability with respect to such funds and such purchaser.

6. Closing. Except for the sales contract and any note and mortgage that is to be closed by the mortgagee thereof, Escrow Agent shall promptly and diligently arrange for and supervise the execution of all documents related to the Project and shall promptly and diligently close the transactions and perform such services as are necessary or proper therefor.

7. Partial Closings. If Seller desires to close any or all sales at different times, Escrow Agent agrees to cooperate with Seller and shall vary its performance of the directions contained in the Escrow Agreement in such manner as will facilitate performance of such partial closings.

8. Defects in Documents. Upon the closing of each sales transaction, provided that any individual mortgage in connection therewith may then be recorded, and it is legally possible to record all closing documents and none is in any way defective, Escrow Agent shall proceed promptly and within five (5) business days (exclusive of the day of closing) record the necessary documents to effect the transfer of legal title to the purchaser. If for any reason it is determined that any document necessary to close the transaction is defective or cannot be recorded, Escrow Agent shall promptly notify Seller of such fact and Escrow Agent shall proceed promptly to correct such defects as are within its capacity as an escrow depository to correct.

9. Purchaser's Default. If the purchaser fails to make such payment to Escrow Agent on or before the due date thereof or if the purchaser fails to perform in any matter that is being handled by Escrow Agent, Escrow Agent shall promptly notify Seller of any such failure on the part of the purchaser. If Seller subsequently certifies in writing to Escrow Agent that Seller has terminated the sales contract in accordance with the terms thereof and provides to Escrow Agent copies of all such notices of termination sent to the purchaser, Escrow Agent shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract and any interest accrued thereon, as funds of Seller and not as funds of the purchaser. Thereafter, such funds shall be free of the escrow established by the Escrow Agreement and shall be held by Escrow Agent for the account of Seller. Upon written request of Seller, Escrow Agent shall pay such funds to Seller, less any escrow cancellation fee. Escrow Agent shall thereupon be released from any further duties or liability thereunder with respect to such funds and such purchaser.

10. Protection of Escrow. In consideration of Escrow Agent acting as escrow holder thereunder, it is agreed that Escrow Agent is relieved from all liability for acting in accordance with the terms of the Escrow Agreement, notwithstanding a notice to the contrary by Seller or any purchaser or third person. Escrow Agent shall not be responsible for the validity or sufficiency of any sales contracts or other documents received by it and shall be entitled for all purposes to assume that the same have been signed by the persons whose signatures purport to be thereon and that any written certification or instruments from Seller are true and accurate.

If any dispute or difference shall arise or if any conflicting demand shall be made upon Escrow Agent, Escrow Agent shall not be required to determine the same or take any action in the premises; but Escrow Agent may await settlement of the controversy by final appropriate legal proceedings or otherwise as it may require; or Escrow Agent may file a suit in interpleader in any court having jurisdiction in the matter, for the purpose of having the respective rights of the parties adjudicated, and may deposit with the court any or all monies held thereunder. Upon institution of such interpleader suit or other action, depositing such money with the court, and giving notice thereof to the parties thereto by personal service or in accordance with the order of the court, Escrow Agent shall be fully released and discharged from all further obligations thereunder with respect to the monies so deposited.

Seller agrees and shall cause each purchaser to agree to pay Escrow Agent on demand and to indemnify and hold Escrow Agent harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature reasonably suffered or incurred in connection with or arising out of the escrow, including, but not limited to, all costs and expenses incurred in connection with the interpretation of the Escrow Agreement or with respect to any interpleader or other proceeding, and excluding all of the foregoing that is the result of any act or omission by Escrow Agent or its agents that is not generally accepted in the Honolulu business community as a reasonable business practice. Upon payment thereof, the prevailing party will be subrogated to Escrow Agent's right to judgment for said costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature against third parties.

11. Compensation of Escrow Agent. The compensation of Escrow Agent for performance under the Escrow Agreement shall be \$1,200 plus tax for each unit in the Project, on the condition that all sales of units in the Project are closed on or before two years after the date of the Escrow Agreement. Escrow Agent shall also arrange for the issuance of a title insurance policy (standard owner's or ALTA lender's policy) for the sum of \$1,700 for each unit in the Project. An additional fee of \$250.00 shall be charged to the purchaser for each mortgage obtained by the purchaser if the purchaser does not obtain a mortgage loan from a lender designated by Seller. Should the purchaser obtain a mortgage loan from any out-of-state lender, a fee of \$500.00 shall be charged to the purchaser for each mortgage obtained. If an escrow involves a 1031 Exchange, Escrow Agent has a right to assess additional fees commensurate with the amount of work involved.

Escrow's compensation shall become due and payable with respect to a unit in the Project upon the first to occur of the following events: (1) the transfer to the purchaser of such unit of legal title thereto; or (2) final disbursement of the funds held in escrow in connection with such unit. In the event of the cancellation of any sales contract that has been submitted to Escrow Agent, a cancellation fee commensurate with the services rendered by Escrow Agent prior to such cancellation, up to a maximum of \$250.00, plus all costs incurred by Escrow Agent, shall be charged to the purchaser, unless otherwise agreed to by Seller and the purchaser. If Escrow Agent shall for any reason, without fault on its part, be required to change subsequent to the commencement of preclosings or closings for the Project any closing statement or document previously approved as to form and figures by Seller, Seller agrees to pay an additional charge of \$30.00 for each such statement or document that is changed.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT, ONE MUST REFER TO THE ACTUAL ESCROW AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT, THE ESCROW AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

## **Exhibit "I"**

### **Land Description**

All of that certain parcel of land situate at Honouliuli, District of Ewa, City and County of Honolulu, State of Hawaii, described as follows:

LOT 8010, area 2.149 acres, more or less, as shown on Map 645, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, deceased.

Together with access over Lots 8030, 8032 and 8033, as set forth by Land Court Order No. 112041, filed June 4, 1993.

Together with a nonexclusive easement for vehicular access purposes over Lot 70-C-1 and Lot 84-A-2-A, as shown on Map 229, and Lot 172-C and Lot 424-C, as shown on Map 132, as granted by GRANT OF NONEXCLUSIVE EASEMENT (VEHICULAR ACCESS), dated December 13, 2001, filed as Land Court Document No. 2761270; and subject to the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein.

## Exhibit "J"

### Summary of Selected Provisions of Kapolei Business Park Declaration of Covenants, Conditions and Restrictions

The Kapolei Business Park Declaration of Covenants, Conditions and Restrictions dated May 28, 1993, as amended and supplemented (the "KBP Declaration"), contains various covenants, conditions and restrictions with respect to regulation of improvements, approval of plans, regulation and operation and uses, establishment of an association of owners, funds and assessments, enforcement, indemnity and insurance. Among other things, the KBP Declaration includes the following:

1. Section 5.1 of the KBP Declaration requires that all uses must meet the general criteria set forth therein and produce no more light, dust, odor, smoke, traffic, pollutants, disturbances and other emissions than would ordinarily be created by any of the following typical permitted uses if established and operated in accordance with Article V of the KBP Declaration:
  - a. Business office;
  - b. Garment and soft-goods manufacturing and assembly;
  - c. Beverage and food processing;
  - d. Warehouse storage;
  - e. Retail, commercial support;
  - f. Food, beverage establishments;
  - g. Medical support clinic; and
  - h. Recreational facilities.
2. Section 5.2 of the KBP Declaration require the utilization of the best control technology reasonably available to result in maximum control of emissions into the environment, taking into account and balancing both commercially reasonable and prudent economic considerations and the relative emission reduction benefits.
3. Section 5.5 of the KBP Declaration prohibits the following uses:
  - a. Dirt, rock and other refuse shall not be stored on any lot. All garbage or trash shall be placed in closed receptacles stored in refuse collection areas that are screened as set forth in Section 3.13 of the KBP Declaration. Refuse shall be disposed of regularly and in accordance with Applicable Law (as such term is defined in the KBP Declaration).
  - b. No activity that is or may become a public or private nuisance or that (except as expressly permitted) may interfere with or disturb the quiet enjoyment of the Kapolei Business Park shall be conducted on any lot.

- c. Auto salvaging, wrecking or other storing or processing of salvage, scrap or junk; manufacturing, storing or distributing of explosives or of toxic chemicals; petroleum processing; cement manufacturing; creating or maintaining refuse dumps, sanitary fills, incinerators or other waste disposal or processing facilities; and uses releasing noise, vibrations, odor, dust, smoke and other pollutants from any lot are prohibited.
  - d. Use of any lot for any purpose or under any conditions that would require a permit or other approval from a governmental entity is not permitted without the prior written approval of the Trustees and the Plan Coordinator (as such terms are defined in the KBP Declaration).
  - e. Use of any lot as any time-share or similar property is prohibited.
4. Sections 5.10 through 5.15 of the KBP Declaration contain various reservations in favor of the Trustees with respect to water rights, drainage easements, access easements, air rights, trademark and tradename rights, and right to rename and reconfigure.
5. Article VI of the KBP Declaration provides for the creation of an Association of Owners (as such terms are defined in the KBP Declaration) of which each purchaser will be a member by virtue of ownership of a percentage interest in the Property.
6. Article VII of the KBP Declaration provides for the assessments to be paid by each Owner for maintenance and other special assessment purposes.
7. Section 10.1 of the KBP Declaration discloses the following:
- a. High explosive blasting and other heavy construction activities may occur in or near the Park;
  - b. Cathodic and other protection systems may operate in or near the Park;
  - c. Electrical high voltage transmission and distribution lines, transformers and other facilities may be located in or near the Park;
  - d. Heavy industrial and other activities may occur in or near the Park;
  - e. The Park may be located in or near ponding areas used by the City and County of Honolulu and others;
  - f. The Park is located within aviation flight patterns and is subject to overflight by military and civilian aircraft;
  - g. Golf courses; resorts; housing developments; quarries; refineries; cement manufacturing and quarrying facilities; sugar plantations and other agricultural facilities that engage in burning, milling and other activities; chemical plants; coral processing

facilities; aquaculture facilities; sea fisheries; airports; harbors; munitions and explosives storage facilities; military facilities; coal unloading, storage and refining facilities; sanitary landfill facilities; underground fires; and such other uses as may be permitted by Applicable Law may occur and may be located in or near the Park; and

h. With the Trustees' consent or upon the Trustees' initiative, the Park may be subdivided, developed, improved, sold, operated, and otherwise used in any lawful way and the Trustees make no warranty or representation, express or implied, as to the subdivision, development, improvement, sale, operation and use of the Park by them or others.

THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL OF THE PROVISIONS CONTAINED IN THE KBP DECLARATION. EACH PROSPECTIVE BUYER OF A UNIT IS ADVISED TO THOROUGHLY REVIEW THE KBP DECLARATION IN ITS ENTIRETY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE KBP DECLARATION, THE KBP DECLARATION WILL CONTROL AND NOT THIS SUMMARY.