

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Brian D. Kennelly and Gavin J. Kennelly

Address P. O. Box 92, Hanalei, Kauai, Hawaii 96714

Project Name(*): ANANALU

Address 6519 Ananalua Road, Hanalei, Kauai, Hawaii 96714

Registration No. 5962

Effective date: January 7, 2011

Expiration date: February 7, 2012

Preparation of this Report:

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

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

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

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

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

Type of Report:

PRELIMINARY:
(yellow)

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

FINAL:
(white)

The developer has legally created a condominium and has filed complete information with the Commission.

- No prior reports have been issued.
- This report supersedes all prior public reports.
- This report must be read together with _____

SUPPLEMENTARY:
(pink)

This report updates information contained in the:

- Preliminary Public Report dated: _____
- Final Public Report dated: May 12, 2006
- Supplementary Public Report dated: _____

And

- Supersedes all prior public reports
- Must be read together with Final Public Report
- This report reactivates the Final Public Report public report(s) which expired on June 12, 2007

(*) 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-30 286/986/189/1190/892/0197/0800/0203/0104/0107

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

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

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer.

Changes made are as follows:

1. The Developer has not sold any units, however, Unit 2 was conveyed to Brian D. Kennelly, one of the developers.
2. The ground level of Unit 1 was renovated. The ground level now includes a lanai rather than covered parking.
3. The Declaration was amended by a First Amendment to Declaration recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2010-187466 and the Condominium Map was also amended. The amendments reflect the renovations to Unit 1.
4. This Supplementary Public Report revises and/or updates the following pages in the Final Public Report dated May 12, 2006: Pages 6, 11, 12, 14, 15, 16, 19, 21, Exhibit A and Exhibit C.
5. The Developer's Final Public Report expired on June 12, 2007. Pursuant to Section 16-107-19, Hawaii Administrative Rules, sales contracts executed during the period that the Public Report was not in effect may be rescinded at the option of the purchaser and all monies refunded to the purchaser. The purchaser's right to rescind under this rule shall be void thirty (30) calendar days after receipt of written notification of these rights from the Developer or his real estate agent.

SPECIAL NOTICE:

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

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

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

**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. 2006-044624

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]:

First Amendment to Declaration recorded December 03, 2010, as Document No. 2010-187466.

- 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. 4187

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]:

First Amendment to Declaration recorded December 03, 2010, as Document No. 2010-187466.

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

The Bylaws for this condominium re:

Proposed

Recorded - Bureau of Conveyances:

Document No. 2006-04425

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]:

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: _____

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

| <u>Apt. Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)*</u> | <u>Net Other Area (sf)</u> | <u>(Identify)</u> |
|------------------|-----------------|----------------|------------------------------|----------------------------|-------------------------------------|
| <u>Unit 1</u> | <u>1</u> | <u>2 / 2</u> | <u>1047</u> | <u>200</u> | <u>deck</u> |
| | | | | <u>374</u> | <u>workshop/utility area/closet</u> |
| | | | | <u>706</u> | <u>lanai / stairs</u> |
| <u>Unit 2</u> | <u>1</u> | <u>0 / 0</u> | | <u>16</u> | <u>shade shed</u> |

Total Apartments: 2

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

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

Boundaries of Each Apartment:

Per Article II of the Declaration of Condominium Property Regime, the boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall be deemed a part of the apartment, the same being deemed common elements.

Permitted Alterations to Apartments:

Permitted alterations to apartments are as allowed by the County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime will be required to disclose actual improvements as a matter of public record.

Apartments Designated for Owner-Occupant Only: Not Applicable

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 4

| | <u>Regular</u> | | <u>Compact</u> | | <u>Tandem</u> | | <u>TOTAL</u> |
|------------------|----------------|-------------|----------------|-------------|----------------|-------------|--------------|
| | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | |
| Unit 1: | | <u>2</u> | | | | | |
| Assigned Unit 2: | <u> </u> | <u>2</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u>4</u> |
| (for each unit) | | | | | | | |
| Guest | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Unassigned | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Extra for | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Purchase | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |

Other: ****Units A and B have ample space for parking within their limited common elements' land area.**

| | | | | |
|----------------------|------------------|------------------|------------------|------------------|
| Total Covered & Open | <u> 4 </u> | <u> 0 </u> | <u> 0 </u> | <u> 4 </u> |
|----------------------|------------------|------------------|------------------|------------------|

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

Unit 1 has sufficient limited common land area to park 2 cars.

Unit 2 has sufficient limited common land area to park 2 cars.

Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities:

There are no recreational facilities

Swimming pool Storage Area Recreation Area

Laundry Area Tennis Court Trash Chute/Enclosure(s)

Other: _____

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

There are no violations. Violations will not be cured.

Violations and cost to cure are listed below. Violations will be cured by _____

10. Conditions and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

(For conversions of residential apartments in existence for at least five years):

Not Applicable.

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

There are no limited common elements in this project.

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

described in Exhibit B*

as follows:

Note: Land area referenced herein are not legally subdivided lots.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest". It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit ____.

as follows:

| | |
|---------|------------|
| Unit 1: | 50% |
| Unit 2: | <u>50%</u> |
| | 100% |

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 December 2, 2010 issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

There are no blanket liens affecting title to the individual apartments. (However, Unit 1 has a mortgage lien)

There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u> |
|---------------------|--|
| Mortgage (Unit 1) | If the Developer defaults under the Mortgage, the lender may foreclose on the Project. If a foreclosure occurs, all deposits will be refunded to the prospective purchasers, less escrow cancellation fee. |

F. Construction Warranties:

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

1. Building and Other Improvements:
None. There are no warranties, express or implied.
2. Appliances:
None. There are no warranties, express or implied.

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

Renovations to Unit 1 was completed in 2006. The shade shed was constructed in November, 2005.

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):

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Report issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime
 - C) Bylaws of the Association of Apartment Owners
 - D) House Rules, if any. (NONE)
 - E) Condominium Map
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other: _____

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

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

This Public Report is part of Registration No. 5962 filed with the Real Estate Commission on March 23, 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**

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

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

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

RESERVES. Developer discloses that no reserve study was done in accordance with Section 514A-83.6, Hawaii Revised Statutes, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. No reserves are necessary because there are no common elements that require any type of replacement or major repair.

DISCLOSURE RE: SELECTION OF REAL ESTATE BROKER. One of the Developer(s), Brian D. Kennelly, as the owner will be representing themselves in the sale of the apartment.

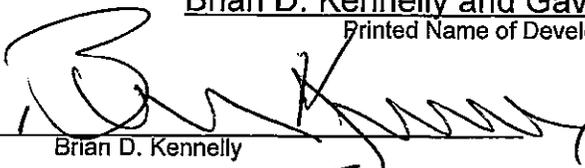
Pursuant to sections 16.99-3(g), Hawaii Administrative Rules ("HAR"), prospective purchaser are hereby advised that one of the Developer(s) Brian D. Kennelly, RB-13616 is a current and active Hawaii-licensed real estate broker. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', and 'For Exchange by Owner'.

BEDROOMS. Unit 1 may only have two (2) bedrooms and Unit 2 may have up to three (3) bedrooms. This is because the maximum capacity of the septic wastewater system is five (5) bedrooms.

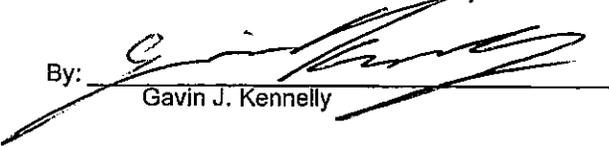
- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (S.L.H 2000) [Section 514A-1.6]. (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.

Brian D. Kennelly and Gavin J. Kennelly

Printed Name of Developer

By: 
Brian D. Kennelly

12/14/10
Date

By: 
Gavin J. Kennelly

12/9/10
Date

Distribution:

Department of Finance, County of Kauai
Planning Department, County of Kauai

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

EXHIBIT "A"

Description of Apartments

a. Unit 1. Unit 1 consist of one freehold estate consisting of one two-story residential structure. This unit consists of a kitchen, living room, two bedrooms, two bathrooms and deck on the top floor. The lower floor contains a workshop, utility area, closet, lanai and stairs that are located below the structure. The net living area of this unit is approximately 1047 square feet, the deck is approximately 200 square feet, the workshop, utility area and closet are approximately 374 square feet, and the lanai and stairs is approximately 706 square feet. The unit is constructed principally of wood, other allied building materials, metal roofing, and concrete CMU post or concrete footing foundation. The land area surrounding Unit 1 as delineated and described in the Condominium Map is a limited common element for Unit 1 and is for the exclusive use of Unit 1; subject, however, to the common septic system and the absorption bed (easement "S-1") and easements "U-1" and "AU-1".

b. Unit 2 Unit 2 consists of one freehold estate consisting of one shade structure. The net area of the structure is approximately 16 square feet. Parking for at least two vehicles is available anywhere within the limited common land area. The land area surrounding Unit 2 as delineated and described in the Condominium Map is a limited common element for Unit 1 and is for the exclusive use of Unit 2; subject, however, to easements "U-1" and "AU-1".

Note: Unit 2 may have up to three (3) bedrooms per the Declaration.

EXHIBIT "C"

Encumbrances Against Title

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. Structure position discrepancies as shown on the survey map prepared by Ronald J. Wagner, Land Surveyor, with Wagner Engineering Services, Inc. dated March 10, 2004.
3. Encroachment(s) as shown on the survey map prepared by Ronald J. Wagner, Land Surveyor, with Wagner Engineering Services, Inc. dated March 10, 2004.
4. The covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Declaration of Condominium Property Regime dated February 22, 2006, recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-044624. The Declaration was amended by instrument dated December 3, 2010, recorded in said Bureau, as Document No. 2010-187466.
5. Condominium Map No. 4187, as amended, recorded in said Bureau, State of Hawaii.
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association Apartment Owners dated February 22, 2006 recorded as Document No. 2006-044625.
7. As to Unit 1 only:

Mortgage dated May 23, 2006, in favor of Bank of Hawaii, a Hawaii corporation, recorded in said Bureau, as Document No. 2006-099830.
8. For real property taxes, your attention is directed to the Director of Finance, County of Kauai.