

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Christopher J. Simpson and Dane J. Smith
Address P.O. Box 61, Hanalei, Hawaii 96714

Project Name (\*): HAU BUSH ESTATES CONDOMINIUM
Address: Lot 227 of Wainiha Hui Lands, Powerhouse Road, Wainiha, Hanalei, Kauai, Hawaii 96714

Registration No. 5986
Effective date: May 5, 2006
Expiration date: June 5, 2007

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

Not Required - Disclosures covered in this report.

Summary of Changes from Earlier Public Report:

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

No prior reports have been issued by the developer.

Changes made are as follows:

SPECIAL NOTICE:

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS OR OTHER STRUCTURES WHICH MAY BE BUILT UPON THE PROPERTY. ANY PURCHASER SHOULD BE AWARE THAT THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT ANY EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. PRIOR TO PURCHASE, THE PROSPECTIVE PURCHASER IS ADVISED TO REVIEW THIS CONDOMINIUM PROJECT WITH THE RESPECTIVE KAUAI COUNTY PLANNING AND BUILDING OFFICES TO RECEIVE THE MOST RECENT DIRECTIVES CONCERNING DEVELOPMENT, REPLACEMENT, EXPANSION, OR CONSTRUCTION OF ANY TYPE OF STRUCTURE FOR THIS CONDOMINIUM PROJECT IN THE FUTURE. THERE ARE TWO CPR SHADE STRUCTURES ON THE PROPERTY AT THIS TIME, EACH OF WHICH MAY BE DEFINED AS AN "APARTMENT" OR "UNIT" UNDER THE CONDOMINIUM PROPERTY ACT.

1. This Public Report does NOT constitute an approval of the project by the REAL ESTATE COMMISSION or by any other public entity, nor does it assert or imply that all applicable Kauai County codes, ordinances and/or subdivision requirements have been complied with.
2. This is a CONDOMINIUM PROJECT, NOT A SUBDIVISION. It does NOT involve the sale of individual SUBDIVIDED LOTS. The dotted lines on the Condominium Map (Exhibit A) are for illustration purposes only. They merely represent the approximate location of the Limited Common Element assigned to each unit. The dotted lines should NOT be construed as property lines of legally subdivided lots.
3. All owners and users of the individual condominium units (apartments) are automatically members of the Association of Apartment Owners of the Project and are subject to the Bylaws of that Association, the Declaration of Condominium Property Regime, any House Rules and other existing or adopted Project Documents.
4. Facilities and improvements normally associated with County approved subdivisions may not necessarily be provided. For instance, at present there is no trash pickup service at the Project, although a public refuse transfer station is located approximately four miles from the Project and is available for use without charge.
5. The land may be subject to rollback real property taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Director of Finance, County of Kauai for further information.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW ALL DOCUMENTS REFERENCED IN THIS PUBLIC REPORT, AND TO CONTACT APPROPRIATE COUNTY AGENCIES FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Christopher J. Simpson and Dane J. Smith Phone: (805) 635-2848 or (808) 635-9401
Name\* (Business)
Business Address P.O. Box 61 or P.O. Box 352
Hanalei, Hawaii 96714

Names of officers and directors of developers who are corporations; general partners of a partnership, partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A

Real Estate Broker\*: None - Please see Page 20 Phone: (Business)
Name
Business Address

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 826-5300
Name (Business)
Business Address P.O. Box 223330
Princeville, Hawaii 96722

General Contractor\*: Callahan Construction Inc. - GC- 14852 Phone: (808) 826-4411
Name (Business)
Business Address P. O. Box 568
Hanalei, Hawaii 96714

Condominium Managing Agent\*: None- self managed by the Association of Phone: (Business)
Name Condominium Owners
Business Address

Attorney for Developer: Peter C. Miller, Attorney at Law Phone: (808) 826-4606
Name (Business)
Business Address P.O. Box 1230
Hanalei, Hawaii 96714

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

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

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2006-005143  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 4145  
 Filed - Land Court Condo Map No. \_\_\_\_\_

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

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2006-005144  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

Proposed                       Adopted                       Developer does not plan to adopt House Rules

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

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

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

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

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

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

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

For Sub-leaseholds:

- Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  Canceled  Foreclosed
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.
- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

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

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

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

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

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

[ ] 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: Lot 227 of Wainiha Hui Lands, Wainiha, Kauai, Hawaii Tax Map Key (TMK): (4) 5-8-005-035

Address  TMK is expected to change because Individual numbers will be assigned to the units created

Land Area: 0.672  square feet  acre(s) Zoning: R-1

Fee Owner: Christopher J. Simpson and Dane J. Smith, Tenants in Common  
 Name  
P.O. Box 61 / P.O. Box 352  
 Address  
Hanalei, Hawaii 96714

Lessor: N/A  
 Name  
 Address

C. **Buildings and Other Improvements:**

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

2. Number of Buildings: 2 Floors Per Building: 1

Exhibit B contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other Shade cloth & steel fence posts

4. Uses Permitted by Zoning:

|   | <u>No. of<br/>Apts.</u> | <u>Use Permitted By Zoninci</u>         |                             |
|---|-------------------------|---|-----------------------------|
| <input checked="" type="checkbox"/> Residential | _____                   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Commercial             | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Mix Res/Comm           | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Hotel                  | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Timeshare              | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Ohana                  | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Industrial             | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Agricultural           | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input type="checkbox"/> Recreational           | _____                   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| <input checked="" type="checkbox"/> Other: Shed | <u>2</u>                | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes  No

5. Special Use Restrictions:

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

Pets: Reasonable domestic pets are allowed; no poultry, pigs, goats, hunting/attack dogs or more than 3 dogs, etc.

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

Other: Prohibition of activities making unreasonable noises or otherwise disturbing other occupants.

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 &amp; 2</u> | <u>2</u>        | <u>0/0</u>     | <u>0</u>                      | <u>16</u>                  | <u>Shed</u>       |
| _____                 | _____           | _____          | _____                         | _____                      | _____             |
| _____                 | _____           | _____          | _____                         | _____                      | _____             |
| _____                 | _____           | _____          | _____                         | _____                      | _____             |
| _____                 | _____           | _____          | _____                         | _____                      | _____             |

Total Number of Apartments: 2

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

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

Boundaries of Each Apartment:

**See Exhibit A (Condominium Map). The approximate net floor areas of each unit as set forth above is measured from the interior surface of the unit perimeter walls and includes all of the walls and partitions within the perimeter walls.**

Permitted Alterations to Apartments:

**As allowed by the Kauai County zoning ordinances, the Declaration and the recorded covenants, conditions and restrictions upon each permanent improvement. An amendment to the Declaration of Condominium Property Regime and the Condominium Map (Exhibit A) by the Association of Unit Owners will be required in order to disclose actual improvements as a matter of public record.**

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

7. Parking Stalls:

Total Parking Stalls: **see below**

|                             | <u>Regular</u> |             | <u>Compact</u> |             | <u>Tandem</u>  |             | <u>TOTAL</u> |
|-----------------------------|----------------|-------------|----------------|-------------|----------------|-------------|--------------|
|                             | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> |              |
| Assigned<br>(for each unit) |                | <u>2</u>    |                |             |                |             | <u>4</u>     |
| Guest                       |                |             |                |             |                |             |              |
| Unassigned                  |                |             |                |             |                |             |              |
| Extra for Purchase          |                |             |                |             |                |             |              |
| Other: _____                |                |             |                |             |                |             |              |
| 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.

\*There are no designated parking stalls. However, there is ample room in each unit's limited common element to accommodate parking.

Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool       Storage Area       Recreation Area

Laundry Area       Tennis Court       Trash Chute/Enclosure(s)

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

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

There are no violations.       Violations will not be cured.

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

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

Developer makes no representations or warranties as to the expected useful lives of those components and installations. Developer, based upon report of architectural inspection, states that those elements are in normal, satisfactory, and workable condition.

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 Interests:

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     C    

as follows: **The land areas of the limited common elements set aside for the respective Units are as shown on the Condominium Map, which is Exhibit A hereto.**

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     D    

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 **April 7, 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.

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

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

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

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>   |
|---------------------|---|
| Mortgage            | The lien of the mortgage will be removed from title prior to the conveyance of a unit to a buyer. Alternatively, a buyer may assume a portion of the obligation, secured only by the unit the buyer is purchasing. In such latter event, payment on any portion of the obligation so assumed must be current at the time it is transferred to the buyer. If the lien is foreclosed prior to conveyance of the unit, the transaction will be canceled and Buyer's money shall be refunded, 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

2. Appliances:  
None

G. Status of Construction and Date of Completion or Estimated Date of Completion:  
Units 1 and 2 sheds were completed January 3, 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
- self-managed by the Association of Apartment Owners
- the Developer or Developers affiliate
- Other: \_\_\_\_\_

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

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

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

Exhibit 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 \_\_\_\_\_

**V. MISCELLANEOUS**

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

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit   G   contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated February 10, 2006  
Exhibit   H   contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

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

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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. 5986 filed with the Real Estate Commission on April 21, 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**

1. Disclosure regarding selection of Real Estate Broker:

The Developer plans to sell the apartments in the Project, but is not prepared to make any current offerings of sale.

When the Developer begins selling or offers to sell, the developer will use a real estate broker for the sale of an apartment, prior to entering into a binding contract for such sale. The Developer shall (1) submit to the Real Estate Commission a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, together with a duly executed disclosure abstract identifying the designated broker, and (2) provide a copy of the disclosure abstract to the purchaser together with a copy of this public report.

2. Current ordinances of the County of Kauai allow the construction of one single family dwelling and one Additional Dwelling Unit (an "ADU") on the property of this Project. As long as the current ADU ordinance is in effect, each of the units shall be entitled to construct one single family dwelling, regardless of whether it is to be considered the allowed 'main' dwelling or the ADU. Except as so stated in this paragraph, the Developer makes no warranties or representations regarding the future of County of Kauai ordinances entitling the construction of an ADU on the Project property.

3. With the construction of an ADU as discussed above, this Project is entitled to no "guest house" as defined by the County of Kauai under current present interpretation of the law. If any change or reinterpretation of the law should hereafter allow for a guest house in the Project, that right shall belong to Unit B. A record of that award shall be recorded in the Bureau of Conveyances of the State of Hawaii. After such award, this right may thereafter be assigned at any time to the then-owner of the other unit by written agreement recorded in the Bureau of Conveyances of the State of Hawaii. All provisions of the Comprehensive Zoning Ordinance of the County of Kauai, and any other laws, ordinances or regulations with applicability shall then be observed by the owner of the unit to which the guest house right applies. No use of the guest house shall impair the right of any other unit owner to construct or maintain a farm dwelling, or the offending aspect(s) of the guest house shall be removed promptly. Any prospective owner of a unit with guest house rights should consult with the appropriate County of Kauai agency having jurisdiction of matters of concern before purchasing the unit and before construction. In the event that the law is changed to allow further condominiumization of the unit with guest house rights, or further conversion to an additional dwelling unit ("ADU"), then this Declaration shall be interpreted to allow such, provided it does not interfere with the right of any other owner to have a farm dwelling on that owner's unit. Upon such further condominiumization or conversion to ADU, the common interests will be apportioned in equal one third shares to reflect one equal share for each residence.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

Christopher J. Simpson and Dane J. Smith  
 Printed Name of Developer

By:   2/10, 2006  
 Duly Authorized Signatory\* Date

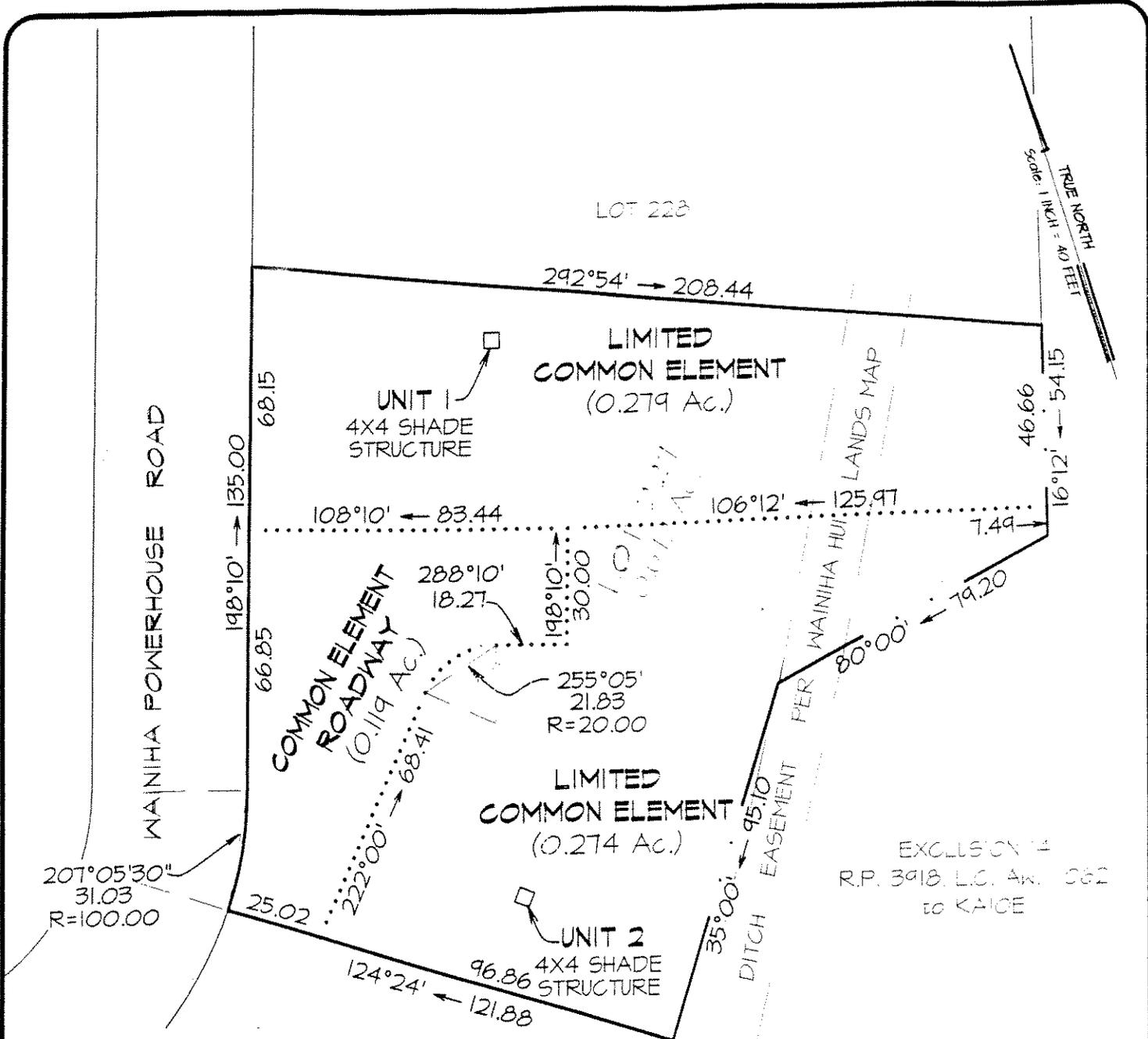
Christopher J. Simpson and Dane J. Smith, Developer  
 Printed Name & Title of Person Signing Above

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.***



EXCLUSION 14  
R.P. 3918, L.C. Ak. 582  
to KAICE

Prepared for:  
JODY SIMPSON & DANE SMITH  
P.O. BOX 352  
HANAIEI, KAUAI, HI 96714

LOT 225

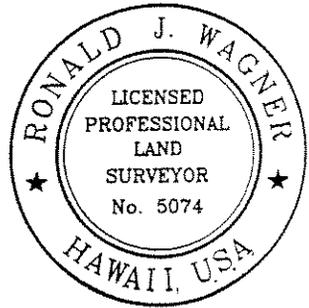
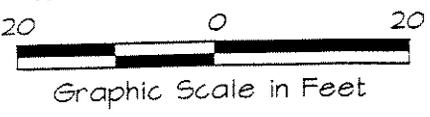
SEPTEMBER 26, 2005 "HAU BUSH ESTATES" CONDOMINIUM

NOTE:

- 1. This project does not involve the sale of individual lots. The dotted lines on the Condominium Map are for illustration purposes only. They represent either a limited common element or common element.

MAP OF  
SHOWING  
UNITS 1 and 2  
AND  
COMMON ELEMENT ROADWAY  
being  
LOT 227

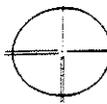
WAINIHA HUI LANDS  
SITUATED AT  
WAINIHA, KAUAI, HAWAII



This map was prepared by me or under my direct supervision.

*Ronald J. Wagner*  
RONALD J. WAGNER  
Licensed Professional Land Surveyor  
Certificate Number 5074.

Wagner Engineering Services, Inc.  
P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

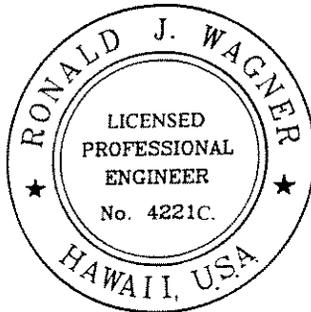


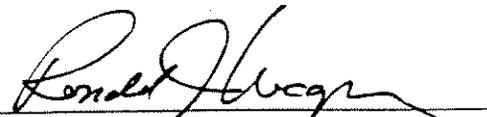
ENGINEER'S CERTIFICATION

STATE OF HAWAII )  
 ) SS.  
COUNTY OF KAUAI )

The undersigned, being a licensed Land Surveyor and Engineer within the State of Hawaii, and bearing Registration Numbers 5074 and 4221, respectively, hereby certifies that the Condominium Map for the project known as "HAU BUSH ESTATES" accurately reflects the location and division of the apartment units and the dimensions of the limited common elements. Floor plans and elevations of the structures comprising the project are subject to a separate certification by a Hawaii-licensed architect or engineer, to be attached hereto.

WAGNER ENGINEERING SERVICES, INC.



  
Ronald J. Wagner P.E., L.S.

Subscribed and sworn to before me

this 26 day of September, 2005

  
NOTARY PUBLIC, State of Hawaii

LS

My commission expires: **GEOFFREY CULVERHOUSE**  
Notary Public, State of Hawaii  
Commission Expires 01/31/2007

Project No. 4008

## **EXHIBIT B**

### **DESCRIPTION OF BUILDINGS**

Unit 1 apartment is a newly constructed separate, one room, single story shed constructed of metal posts and shade cloth approximately 16 square feet in size and is located on this unit's 0.279 acre limited common element, which is described in Exhibit "C" attached hereto and made a part hereof.

Unit 2 apartment is a newly constructed separate, one room, single story shed constructed of metal posts and shade cloth approximately 16 square feet in size and is located on this unit's 0.274 acre limited common element, which is described in Exhibit "C" attached hereto and made a part hereof.

## **EXHIBIT C**

### **COMMON ELEMENTS OF THE PROJECT**

The "common elements" shall consist of all portions of the Project not specifically included in the apartments or in their limited common elements, specifically including, but not limited to:

- (a) All of the Land in fee simple, subject to the interests described in Article IV of the Declaration, and all of the rights, if any, to use easements that are exterior to the Land, but are either appurtenant to it or are otherwise available for use by all owners of the Land;
- (b) All existing commonly used ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, water, sewage, irrigation, cable and telephone;
- (c) All areas or facilities, if any, designated on the Condominium Map and/or in the Declaration's Exhibit "A" property description, for common use of the units; and
- (d) The 0.119 acre Common Element Roadway as shown on the Condominium Map and as described in Exhibit "E" to the Declaration.
- (e) Any and all other future elements and facilities as may be unanimously designated in writing by the owners of all the CPR units, which designation as a common element(s) shall include a provision as to how the cost of creation, construction, maintenance and other costs shall be apportioned among the CPR units. Thereafter, any additions, alterations, repairs or improvements to the common elements of the Property may be made only by or at the direction of, and by unanimous vote of, the Board of Directors of the Association of Apartment Owners of HAU BUSH ESTATES Condominium (the "Board of Directors" or the "Board") and in compliance with the said writing. No owner of an apartment may, except with the prior written permission of the Board, make any alteration, addition, repair or improvement (i) to his apartment which may affect the common elements, or (ii) to any of the common elements.

### **LIMITED COMMON ELEMENTS OF THE PROJECT**

Certain parts of the common elements are referred to herein as the "limited common elements". These are designated on the Condominium Map by dotted lines, and each is set aside for the exclusive use of, and occupation by, an individual unit by exclusive easement appurtenant to that unit. In any case where a limited common element is reserved for the use of and/or occupation by more than one, but less than all,

of the units, then the easement shall be considered exclusive and appurtenant only to those units intended to be benefited. The limited common elements so set aside, reserved and designated for the exclusive use of and occupation by the units created herein are those certain land areas under and around the apartment structures of the respective units. The locations of the respective limited common elements are as shown and designated on the Condominium Map and are of the following sizes:

|        |              |
|--------|--------------|
| Unit 1 | 0.279 acres* |
| Unit 2 | 0.274 acres* |

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement shall be borne solely by the owner of the apartment to which said limited common elements are appurtenant.

\* Land areas referenced herein are not legally subdivided lots.

## EXHIBIT D

### SCHEDULE OF APARTMENTS AND COMMON INTERESTS

| Qty. | Apt. No. | Area of Ltd. Common Area (acres) | No. of Bdrm/Bath | Approx. Net Living Area (sq. ft.) | Approx. Total Enclosed Area (sq. ft.) | Percentage of Common Interest |
|------|----------|----------------------------------|------------------|-----------------------------------|---------------------------------------|-------------------------------|
| 1    | 1        | 0.279                            | 0/0              | 0                                 | 16                                    | 50%                           |
| 1    | 1        | 0..274                           | 0/0              | 0                                 | 16                                    | 50%                           |

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration, each unit owner may use his/her unit and alter or add to it in any manner he/she deems desirable, so long as it is permitted by law. If the adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by executing and filing an appropriated amendment to the Condominium Map and the Declaration of Condominium Property Regime.

## EXHIBIT E

### ENCUMBRANCES AGAINST TITLE

1. Any real property taxes due and owing. The taxing authority should be contacted for particulars.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. The free flowage of water in favor of all those entitled, in all auwais, ditches and streams as exist on the ground and as shown on a map filed with the Final Decree of Partition in Equity Proceedings No. 109, Fifth Circuit Court, and as set forth in Commissioner's Deed recorded in Liber 2099 at Page 187.

#### 4. MORTGAGE

LOAN/ACCOUNT NO. 3956385-LOT

MORTGAGOR : CHRISTOPHER JODY SIMPSON, an unmarried man and  
DANE J. SMITH, an unmarried man

MORTGAGEE : INDYMAC BANK, F.S.B., a federally chartered savings bank

DATED : July 2, 2004  
RECORDED : Document No. 2004-139374  
AMOUNT : \$240,000.00

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME  
FOR HAU BUSH ESTATES CONDOMINIUM"  
CONDOMINIUM PROJECT

DATED : 0045301CPR January 3, 2006  
RECORDED : Document No. 2006-005143  
MAP : 4145 and any amendments thereto

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF APARTMENT  
OWNERS

DATED : 0045307CPR January 3, 2006  
RECORDED : Document No. 0015314CPR 2006-005144

EXHIBIT     F    

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

| <u>Apartment</u> | <u>Monthly Fee</u> x 12 months = <u>Yearly Total</u> |       |
|------------------|--|-------|
| 1                | \$30   | \$360 |
| 2                | \$30   | \$360 |
|                  |  | \$720 |

**RE: INSURANCE:**

In the event that none of the structures comprising the improvements portion of the Project contain more than one apartment, but rather each of the individual units of the Project is comprised of a separate detached agricultural or single family dwelling set back within the boundaries of its own limited common element, the Association may, at its option, and subject to the requirements of law, elect to exempt the Project from Section XIV of the Declaration and allow individual unit owners to provide for their own casualty and liability insurance; PROVIDED, HOWEVER, that any such decision to allow individual unit owners to insure themselves must be by unanimous agreement of all the unit owners of the Project. In that event, payment of any premiums pursuant hereto shall not be a common expense, but shall be the responsibility of each individual unit owner and neither the Association nor the other unit owners shall be responsible therefore. The Association shall, however, be named as an "additional insured" in all such policies.

**RE: REPLACEMENT RESERVE STUDY:**

**DEVELOPER DISCLOSES THAT NO RESERVE STUDY WAS DONE IN ACCORDANCE WITH CHAPTER 514A-83.6, HRS, AND NO REPLACEMENT RESERVE RULES, SUBCHAPTER 6, TITLE 16, CHAPTER 106 HAWAII ADMINISTRATIVE RULES, AS AMENDED.**

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

Utilities and Services

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

Maintenance, Repairs and Supplies

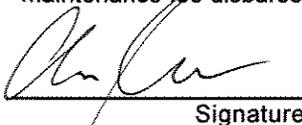
- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

|                                  |      |       |
|----------------------------------|------|-------|
| Insurance                        | \$60 | \$720 |
| Reserves(*)                      |      |       |
| Taxes and Government Assessments |      |       |
| Audit Fees                       |      |       |
| Other                            |      |       |
| TOTAL                            |      | \$720 |

I, Christopher J. Simpson and Dane J. Smith, as agent for/and/or employed by \_\_\_\_\_  
the condominium managing agent/developer for the HAU BUSH ESTATES  
condominium project, hereby certify that the above estimates of initial maintenance fee assessments and  
maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

 , Developer 2-10-06  
Signature Date

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

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

## EXHIBIT G

### SUMMARY OF SALES CONTRACT

Each sales contract ("Contract" herein) for a Unit in HAU BUSH ESTATES CONDOMINIUM project (the "Project") will be on the then latest version of the Hawaii Association of Realtors standard printed form of Deposit Receipt Offer and Acceptance (DROA), into which a Special Terms Addendum "A" is incorporated. The Contract will contain, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized here):

1. The total purchase price and the timing and method of payment of it to the escrow agent, subject to other terms in the Contract. A buyer must obtain his/her own financing.
2. The additional costs and expenses not included in the purchase price to be paid respectively by Buyer and Seller relative to the purchase and sale of the Unit.
3. That all deposits and payments of Buyer shall be delivered to escrow and disbursed in accordance with the Condominium Escrow Agreement and the Buyer is subject to all of the terms of that agreement. Entitlement to any interest accruing on the deposits shall be subject to the terms of the DROA and the Condominium Escrow Agreement.
4. Whether, at the time of execution of the Contract, an effective date for a Final Public Report has been issued. If not, then the contract is merely a reservation agreement and may be cancelled at any time by either the Buyer or Seller and no deposit shall be accepted on behalf of the Seller.
5. The terms and conditions of the sale which include, among other provisions, the following:
  - (a) That buyer receive copies of the Final Public Report for the Condominium Property Regime, the Condominium Map, the Declaration of Condominium Property Regime, Bylaws of the Association of Apartment Owners, the form of Apartment Deed, and the Condominium Escrow Agreement and be given a stated period of time to read those documents; it shall be required that Buyer acknowledge that he/she has had such opportunity and accepts those documents.
  - (b) Risk of loss to the apartment and percentage interest in the common elements will be borne by Seller until the date of closing as defined in the Contract. Buyer will not be entitled to possession of the apartment until the date of closing.
  - (c) Until the Apartment Deed conveying title is delivered to Buyer, the Seller may exercise all of the powers of the Association and of the Buyer as a member thereof.
  - (d) After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Buyer shall have the right to rescind the Contract only if there is a material change in the Project which directly, substantially and adversely affects the use or value of Buyer's apartment or appurtenant limited common elements or those amenities of the Project available for the Buyer's use, subject to waiver by

the Buyer pursuant to the terms set forth in the Contract and Hawaii Revised Statutes Section 514A-63.

- (e) The closing date for the purchase. Time shall be of the essence of the obligations of Buyer under the Contract.
- (f) The payment of commissions, if any.
- (g) Acknowledgement by Buyer that neither the Seller nor any of its representatives have made any representations as to the rental income or profit to be derived from the Unit.
- (h) Acknowledgement by Buyer that Seller makes no warranties of any kind regarding the Unit, the Project or any improvement, appliance or furnishing related thereto.
- (i) The Contract shall not be construed as a present transfer of any interest in the Property, but it is instead an agreement to transfer in the future, contingent upon issuance of an effective date by the Real Estate Commission of a Final Public Report for the Project.
- (j) In the event of default under the Contract by Buyer:
  - (i) Seller may bring an action against Buyer for breach of contract'
  - (ii) Seller may retain Buyer's deposit(s)'
  - (iii) Buyer shall be responsible for expenses incurred.
- (k) In the event of default under the Contract by Seller:
  - (i) Buyer may bring an action against Seller for breach of contract;
  - (ii) Buyer may bring an action compelling Seller to perform under the Contract;
  - (iii) Seller shall be responsible for expenses incurred.

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

***End of Exhibit G***

## EXHIBIT H

### SUMMARY OF ESCROW AGREEMENT

The Condominium Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. a Hawaii Corporation (the "Escrow"), and Owner / Developer of HAU BUSH ESTATES CONDOMINIUM project, (the "Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will deliver an executed copy of the sales contract to Escrow. Seller will require that all payments due under the sales contract on account of the purchase price be made to Escrow to be held and disbursed pursuant to the Agreement and Chapter 514A of Hawaii Revised Statutes.
2. Escrow will, within a reasonable time of receipt, deposit all funds in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in Hawaii, with interest to be paid as specified in the sales contract, and if not so specified, then as described in Paragraph 2 of the Agreement.
3. No disbursement of funds held under the Agreement shall be made, except by way of refunds, until an effective date for a Final Public Report has been issued by the Real Estate Commission and the potential Buyer has acknowledged, or is deemed as having acknowledged, receipt of a copy of the Final Public Report and Seller or Seller's attorney have delivered a written opinion to Escrow that the sales contract has become effective and that certain other legalities discussed in Paragraph 3 of the Agreement have been met.
4. Paragraph 4 of the Agreement describes the return by Escrow of funds to the Buyer under various circumstances of failed contingencies, rescission, cancellation and other failures of the purchase to conclude. It includes discussion of the circumstances when interest, cancellation fees and reimbursement of certain expenses may also be payable to the Buyer.
5. The Agreement describes the duties of Escrow to notify purchasers when funds are to be returned to them and what occurs when those funds are not claimed.
6. Escrow will be responsible to promptly and diligently arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract and shall act with diligence and dispatch, to perform all necessary and customary escrow functions to close the sale pursuant to the terms and conditions set forth in the sales contracts. Escrow will see to the transfer of title to the Buyer and the disbursement of the sales proceeds to Seller, and the recording and delivery of the appropriate conveyancing, loan, release and other transaction documents. Provision is made in Paragraph 8 for dealing with any defects in documents.
7. Developer shall give written notice to Buyer with a copy to Escrow of payments due under the sales contract. Escrow will collect payment due from Buyer as specified by

Developer. Escrow will notify Seller of any default in such payment by Buyer or if Buyer fails to perform in any matter that is being handled by Escrow, and if Seller certifies in writing to Escrow that Seller has terminated the sales contract in accordance with the terms thereof, and supplies Escrow with copies of the notices of termination, then Escrow shall thereafter treat all funds of the Buyer paid on account of the sales contract as funds of the Seller and not of the Buyer and shall hold them for the account of the Seller, free of the escrow. Upon written request of Seller, Escrow will pay such sums to Seller, less any escrow cancellation fee. Any partially executed conveyance documents held by Escrow shall be returned to Seller. Escrow shall hold all other documents theretofore delivered to Escrow for the statutory period.

8. Escrow, in carrying out its responsibilities under the Agreement, is provided several important protections and limitations to its liability. Escrow is not required to resolve any disputes and may instead await settlement or remove itself by depositing monies held by it into court. Seller and Buyer are required to indemnify and hold Escrow harmless from costs, damages and liabilities of all sorts incurred by Escrow for any act of Escrow that is not generally accepted as a reasonable business practice in the Honolulu business community.

9. Escrow's compensation for performance as escrow holder hereunder and for issuing title insurance shall be according to its scheduled rates plus applicable excise tax. In addition, Escrow will charge Buyer a fee of \$100 for each mortgage obtained by Buyer if it is not from a lender designated by Seller. Escrow will also charge a cancellation fee commensurate with its services, but not less than \$25 plus all costs incurred by Escrow, as well as a fee for changing documents previously approved.

**SPECIAL NOTICE: THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH OR EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT, WHICH IS FAR MORE COMPREHENSIVE AND DETAILED THAN THIS SUMMARY. WHILE ONE CAN USE THIS SUMMARY AS A VERY GENERAL SUMMARY OF SOME KEY TERMS OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.**

***End of Exhibit H***

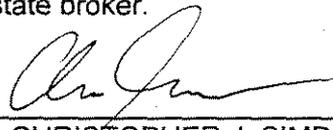
**DISCLOSURE ABSTRACT STATEMENT (§ 514A-61)  
FOR  
HAU BUSH ESTATES CONDOMINIUM PROJECT**

Pursuant to Hawaii Revised Statutes, Section 514A-61, the Developer of HAU BUSH ESTATES CONDOMINIUM PROJECT, located upon Lot 227 of Wainiha Hui Lands, Powerhouse Road, Wainiha, Kauai, Hawaii, makes the following disclosures:

1. The Developer (collectively) of the project is CHRISTOPHER J. SIMPSON, whose address is P.O. Box 61, Hanalei, Hawaii 96714, and whose phone number is 635-2848, and DANE J. SMITH, whose address is P. O. Box 352, Hanalei, Hawaii 96714, and whose telephone number is (808) 635-9401.
2. See Exhibit "F" to the Final Public Report for the projected annual maintenance fees. The Developer hereby certifies that the estimations have been based on generally accepted accounting principles, but were made without a Reserve Study as defined in Section 514A-83.6 of Hawaii Revised Statutes.
3. No warranties are made regarding any individual apartments or common elements. Nor are warranties of any kind made with regard to any pre-existing structures on the project property.
4. There will be no commercial use except those activities permitted by the Kauai County Comprehensive Zoning Ordinance. Residential use shall be permitted, but hotel use shall not. No additional units will be created.
5. Pursuant to Section 16-107-5, Hawaii Administrative Rules, reference is hereby made to the method by which common interest has been computed for the above-referenced project. There are two units, each of which will sustain a residential structure and each of which will burden the common elements in an approximately equal manner. Therefore, the assessment of undivided interest both for common expense and for voting is 50.00% for each unit.
6. There are no outstanding notices of uncured violations of building code or other municipal regulations. The project has no structures or uses which do not conform to the present zoning requirements of such structures, uses or underlying real property.

7. The units are not yet listed with a real estate broker.

Dated: 2/10, 2006

  
CHRISTOPHER J. SIMPSON, Developer

Dated: 2/10, 2006

  
DANE J. SMITH, Developer

**RECEIPT**

The undersigned has received a copy of the foregoing Disclosure Abstract Statement with Exhibit F this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Purchaser(s):  
  
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*Exhibit "I" - Disclosure Abstract*