

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: CHARLES T. LYDGATE and AMELITA P. LYDGATE, Trustees
Developer ERIC A. PETERSON and CAMILLE M. PETERSON, Trustees
Business Address 92-132 Aipo'ola Place, Ewa Beach, Hawaii 96706

Project Name (\*): HONOIKI COTTAGES CONDOMINIUM
Address: 5232 Old Makena Road, Kihei, Hawaii 96753

Registration No. 6093 (Partial Conversion) Effective date: July 23, 2007
Expiration date: October 6, 2007

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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: September 6, 2006
[ ] Supplementary Public Report dated:

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

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.
FORM: RECO-30 286/886/189/1190/892/0197/1098/0800/0203/0104/0107

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

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

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

1.     Amendment to Declaration of Condominium Property Regime and Map. Although the buildings comprising Unit A and Unit B have not changed, the areas and descriptions of the net living area of Unit B and the limited common elements appurtenant to each unit, as previously described in the Declaration of Condominium Property Regime and Condominium Map, have been amended.
2.     Limitation on Sale of Unit B: The law covering the sale of property improved by an owner-builder requires that at least one year must elapse from completion of the improvement before it can be offered for sale. A year has elapsed from the completion of the Unit B, which occurred on November 29, 2006. The Developer can sell Unit B. The Developer has obtained a miscellaneous inspection report from the County of Maui which states that Unit B is in general compliance with building codes.
3.     Disclosure regarding selection of Real Estate Broker. The Developer has selected Bello Realty, Inc. as the broker for the sale of Unit B. A copy of the executed sales broker listing agreement with Bello Realty, Inc., a Hawaii licensed real estate broker, is submitted with this Supplemental Public Report.
4.     House Rules. The House Rules have been amended, as set forth in Section 14 of Additional Information on page 20B, below.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: CHARLES T. LYDGATE and AMELITA P. LYDGATE, Trustees
91-132 Aipo'ola Place
Ewa Beach, Hawaii 96706
Phone: (808) 371-0369
ERIC A. PETERSON and CAMILLE M. PETERSON, Trustees
2772 Sunset Hills
Escondido, California 92025
Phone: (760) 802-4303

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary): NOT APPLICABLE

Four horizontal lines for listing names of officers and directors.

Real Estate Broker\*: BELLO REALTY, INC.
115 East Lipoa Street, Suite 101
Kihei, Hawaii 96753
Phone: (808) 879-3402

Escrow: TITLE GUARANTY ESCROW SERVICES, INC.
35 South Market Street
Wailuku, Hawaii 96793
Phone: (808) 244-7924

General Contractor\*: PACIFIC ENERGY STRATEGIES LLC
94-1093 Hanauna Street, Suite 102
Waipahu, Hawaii 96797
Phone: (808) 671-5566

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

Attorney for Developer: KAREN TEMPLE
Attorney at Law, LLLC
24 N. Church Street, Suite 200
Wailuku, Hawaii 96793
Phone: (808) 244-8222

\* 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. 2006-112871  
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]:

Amendment of Declaration of Condominium Property Regime and Condominium Map No. 4254 of Honoiki Cottages Condominium dated February 21, 2007, recorded as Document No. 2007-038306.

Second Amendment of Declaration of Condominium Property Regime of Honoiki Cottages Condominium dated May 23, 2007, recorded as Document No. 2007-111793.

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. 4254  
 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]:

Amendment of Declaration of Condominium Property Regime and Condominium Map No. 4254 of Honoiki Cottages Condominium dated February 21, 2007, recorded as Document No. 2007-038306.

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. 2006-112872  
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: No livestock shall be allowed or kept on any part of the Project. No pet shall be a "pest" as defined under HRS §150A-2, or an animal prohibited from importation under applicable sections of Hawaii law.

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

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

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>Bedroom/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>A</u>	<u>1</u>	<u>2 / 1</u>	<u>800</u>	<u>356</u>	<u>outdoor patio and entry</u>
<u>B</u>	<u>1</u>	<u>0 / 1</u>	<u>492</u>	<u>197</u>	<u>lanai</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: Each apartment is measured horizontally by the distances between the finished exterior surface of perimeter walls, windows and doors, and vertically by the distances between the finished exterior surface (bottom) of its foundation and floor supports and the finished exterior surface of its roof.

Permitted Alterations to Apartments:

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

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

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

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

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

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

There are no limited common elements in this project.

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

described in Exhibit  B

as follows:

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

described in Exhibit \_\_\_\_\_.

as follows: The Project consists of only two units.

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

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  April 17, 2007 , and issued by  Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
Mortgage dated September 1, 2004, in favor of Mortgage Electronic Registration Systems, Inc., solely as a nominee for Countrywide Home Loans, Inc. recorded as Document No. 2004-195031 in the initial amount of \$500,000.	Mortgage will be released prior to conveyance of any unit to Buyer.

Pending Civil No. 06-1-0297 filed in the Circuit Court of the Second Circuit, State of Hawaii on August 21, 2006; Pacific Energy Strategies, LLC, vs. Charles T. Lydgate and Amelita P. Lydgate, Trustees under the Charles & Amelita Lydgate Family Trust dated November 19, 2002, and Eric Peterson and Camille M. Peterson, Trustees under the Peterson Family Trust dated March 15, 2005, et al.

Application for Mechanics' and Materialman's Lien dated August 3, 2006, filed as M. L. No. 06-1-0017 in the Circuit Court of the Second Circuit, State of Hawaii; Pacific Energy Strategies, LLC, a Hawaii limited liability company, "Lienor," vs. Charles T. Lydgate and Amelita P. Lydgate, Trustees under the Charles & Amelita Lydgate Family Trust dated November 19, 2002, Eric Peterson and Camille M. Peterson, Trustees under the Peterson Family Trust dated March 15, 2005, Mortgage Electronic Registration Systems, Inc., solely as a nominee for Countrywide Home Loans, Inc., et al., "Lienee;" Amount - \$560,215.47. Application was recorded as Document No. 2006-163630.

If any said lien is not satisfied prior to the closing date Buyer may cancel the transaction and all of Buyer's deposits will be refunded immediately by escrow.

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:

WARRANTIES OFFERED BY THE CONTRACTOR AND/OR BUILDER OF APARTMENT B, IF ANY, FOR ONE YEAR FROM DATE OF COMPLETION.

NO OTHER WARRANTIES ARE OFFERED.

2. Appliances:

WARRANTIES OFFERED BY MANUFACTURER OF APPLIANCE, IF ANY.

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

All construction of the Project has been completed.

Unit A was built in 1964.

Unit B was completed and passed final inspection on November 29, 2005. One year has elapsed since Unit B was completed.

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):

## V. MISCELLANEOUS

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

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit E contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated June 30, 2006  
Exhibit F contains a summary of the pertinent provisions of the escrow agreement.
- Other Sales Broker Listing Agreement

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

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

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

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

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

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

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

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

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

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

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

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

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 6093 filed with the Real Estate Commission on June 30, 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. **Water.** The condominium is served by a single water meter and water use for both apartments will be billed to the Association of Unit Owners by the County of Maui Department of Water Supply in a single bill. The Association is responsible for paying said charges and will allocate them among the unit owners as common expense assessments. For purposes of the estimated budget, it is assumed that each unit will pay an equal share for water.

The County of Maui Department of Water Supply has adopted a policy to require that each unit in a condominium with each unit designated as a separate unit have a separate meter. BUYER IS CAUTIONED THAT BUYER MAY BE FORCED TO OBTAIN A METER AS A CONDITION TO ANY REMODELING, EXPANSION OR REPLACEMENT OF BUYER'S UNIT IF THE UNITS ARE SEPARATED. BUYER IS REFERRED TO THE DEPARTMENT OF WATER SUPPLY FOR ADDITIONAL INFORMATION.

2. **Sewer.** County sewer service is not available. The condominium is served by one on-site private septic system within Yard Area A and is a common element. The Association of Unit Owners shall be responsible for operating, maintaining, repairing and replacing the on-site private septic system, which shall comply with all applicable laws, rules and regulations. The location of the septic system is shown on the site plan of the Condominium Map. No representations or warranties are made as to the quality, useful life, replacement cost, operating cost, or maintenance cost of the septic system and appurtenances.
3. **Immediate Access.** Each unit has direct access to the Limited Common Element on which the unit is located. Each unit has direct access to and from roadway Lot 4 of the De Lima Subdivision (TMK (2) 2-1-7-77) to Lot 5 of the De Lima Subdivision (TMK (2) 2-1-7: portion 56). An undivided one-third (1/3) interest in roadway Lot 4 has been submitted together with the land under the Condominium Property Regime.

There is a non-exclusive, perpetual easement over Lot 5 for vehicular and pedestrian access to the owners of adjacent lots, occupants, their tenants, guests, licensees and visitors of said owners, including the subject property (Lot 3 of the De Lima Subdivision) providing access to a public road, Old Makena Road.

Roadway Lot 4 and the easement over Lot 5 may be subject to several agreements and easements described on Exhibit C. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL FOR ADDITIONAL INFORMATION CONCERNING THE MAINTENANCE OF THE ROADWAY LOT AND EASEMENT.

4. **Mailboxes.** Each unit shall have its own separate mailbox to be installed by buyer at a location designated by the U.S. Post Office.
5. **Insurance.** Hawaii law requires that the Association of Unit Owners carry liability insurance on the entire condominium as a common expense. Purchasers are urged to review this requirement with their insurance advisors.
6. **SMA Approval Requirements.** The entire condominium land is located within the Special Management Area (SMA). Under State and County law, any improvements to the property will require review and approval by governmental agencies, including the County of Maui Planning Commission, under applicable rules and regulations. Under current rules, as a condition to any increase in the area of Unit A, a portion of Unit A built within the 25 feet setback must be removed.

C. Additional Information Not Covered Above (continued)

7. Flood Zone. The property is subject to a flood zone and is within the tsunami inundation area. However, the property is currently not insured against flood. Purchasers should consult with the County of Maui regarding any building and use restrictions which may be affected by this limitation.
8. Zoning and Land Use Violations. In a condominium, all of the land included in the condominium remains a single, unsubdivided parcel of land for purposes of zoning and land use regulation. If one unit owner violates a regulation, the violation is attributable to both that owner and the innocent owner of each other unit. For example if one owner builds or adds to a structure in a manner which violates height limits, size limits, setbacks, building permit requirements, or flood zone rules, or uses the unit for an unauthorized use, the violation applies to the entire condominium and the innocent unit owner may be subject to fines or may be denied a building permit as long as the violation remains uncured. THE PROSPECTIVE PURCHASER IS CAUTIONED TO CONSULT WITH HIS OR HER LEGAL COUNSEL CONCERNING THESE IMPORTANT RISKS.
9. Rollback Taxes. The land may be subject to rollback real property taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Director of Finance, County of Maui, for further information.
10. Agreements/Easements on Records. The title is encumbered by several agreements and easements described on Exhibit C. BUYER SHOULD CONSULT WITH HIS OR HER LEGAL COUNSEL FOR ADDITIONAL INFORMATION.
11. Asbestos Disclosure. Asbestos materials are hazardous to one's health, particularly if asbestos fibers are released into the air and inhaled. In the past (prior to 1979, but possibly more recently) asbestos was a commonly used insulation material in heating facilities and in certain types of floor and ceiling materials, shingles, plaster products, cement and other building materials. Buyer may wish to make appropriate inquiry into the possible existence of asbestos on the property. Structures having "popcorn" or "cottage cheese" type ceilings may contain asbestos fibers or asbestos-containing material. Such a ceiling should not be disturbed because disturbance could release asbestos fibers in the air. Any disturbance should be done only by licensed abatement contractors.
12. Lead Paint. Unit A was constructed in 1964. Every purchaser of any interest in residential real property on which the residence was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint.
13. Hazardous Waste and Toxic Substances Disclosure. Federal and state laws place strict liability on property owners for dangers caused by hazardous waste and may require that such owner pay for the cost of the cleanup of hazardous substances and other toxic substances. The Developer is only aware of residential use of the property. Buyer may have liability for hazardous substances located on or under the property even if Buyer did not cause such substances to be on or under the property. Therefore, Buyer may wish to make appropriate inquiries into the past use of the property and seek an environmental assessment to ascertain the possible existence of such hazardous substances located on or under the property.

C. **Additional Information Not Covered Above (continued)**

14. House Rules. The Developer has adopted House Rules, which the Buyer should review. Buyer's attention is called to the following:
- (A) The owner of Unit A shall have the right to make the final determination of the type and height of the vegetation grown in the Common Area along the walkway providing access to the units identified as the "Vegetation Area" on the map attached hereto as Exhibit "A" and incorporated herein, containing an area of approximately 248.52 square feet (4' x 62.13').
  - (B) A sub-meter has been installed for the water meter to the property. Water is to be split based on actual usage. The water meter will be read at least every 6 months to determine the actual usage of water by each unit so that the owners of each unit can pay their proportional share of actual water and sewer usage.
  - (C) Units will share, equally, the expense for refuse collection and ground maintenance.
  - (D) If the owner(s) of Unit A exercises the right to relocate the septic system shared with Unit B as provided in the Declaration. To the extent that such relocation results in the loss of rental income for Unit B, the owner of Unit A shall compensate the owner of Unit B for said lost income as agreed by the parties prior to the removal of the septic system.
  - (E) No buildings or structures may be constructed within a portion of Yard Area A & B along the common boundary abutting the ocean, as more particularly depicted on the copy of the Condominium Map attached as Exhibit "A" as the "View Plain Area," for the purpose of maintaining scenic views, air, light, and open space for the benefit of both units. No owner shall construct, build, plant, erect, permit or maintain, or allow anyone else to construct, build, plant, erect or maintain any building, fence, gate, wall, or other structure(s), or any hedge, landscaping or other vegetation other than grass in this area.
  - (F) Access to the Ocean from Unit B shall be along the common ocean access area on the driveway, Lot 4.

- 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.

CHARLES T. LYDGATE and AMELITA P. LYDGATE, Trustees under The Charles and Amelita Lydgate Family Trust dated 11/18/2002; and ERIC A. PETERSON and CAMILLE M. PETERSON, Trustees under The Peterson Family Trust dated 3/15/2005

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

By: Eric A. Peterson, Camille M. Peterson June 1, 2007  
Duly Authorized Signatory\* Date

CHARLES T. LYDGATE and AMELITA P. LYDGATE, Trustees aforesaid  
ERIC A. PETERSON and CAMILLE M. PETERSON, Trustees aforesaid

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

Distribution:

Department of Finance, \_\_\_\_\_ County of Maui

Planning Department, \_\_\_\_\_ County of Maui

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

## **EXHIBIT B**

### **Limited Common Elements**

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

(a) Yard Areas. Each unit shall have appurtenant to it one or more land areas, described and depicted as a Limited Common Element or "Yard Area," as depicted on the Condominium Map. Unit A has appurtenant to it Yard Area A, consisting of approximately 4,490 square feet, which includes a portion of the shared breezeway containing 236.52 square feet, and Parking "A."

Unit B has appurtenant to it Yard Area B, consisting of approximately 4,324 square feet, which includes the outdoor cabana and patio and half bathroom attached to and covered by Unit B and a portion of the shared breezeway containing approximately 136.86 square feet.

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

(b) Mail Boxes. A separate receptacle for delivery of mail ("mail box") shall be designated for each unit, which mailbox is a limited common element appurtenant to each unit. Mail boxes will be located as directed by the United States Postal Service. The exact location of each mail box, and the design, maintenance and use of the mail box, may be further determined under the Bylaws or House Rules.

(c) Parking Space. Parking "B" is appurtenant to Unit B and contains an area of 167 square feet.

## EXHIBIT C

### Encumbrances Against Title

A preliminary title report, prepared by Title Guaranty of Hawaii, Inc. as of April 17, 2007, indicates that the following encumbrances presently exist against the title of the land which constitutes the Honoiki Cottages Condominium.

1. Any and all real property taxes that may be due and owing.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance.
4. AS TO PARCEL SECOND:  
  
Rights of others who may own undivided interest(s), or have easement or access rights, in said parcel.
5. Mortgage dated September 1, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-195031, in favor of Mortgage Electronic Registration Systems, Inc., solely as a nominee for Countrywide Home Loans, Inc.
6. The terms and provisions contained in Declaration of Condominium Property Regime of Honoiki Cottages Condominium dated June 12, 2006, recorded in the said Bureau of Conveyances as Document No. 2006-112871, and Condominium Map 4254, and any amendments thereto.  
  
Said Declaration of Condominium Property Regime was amended by instrument dated February 21, 2007, recorded as Document No. 2007-038306.
7. The terms and provisions contained in By-Laws of the Association of Unit Owners of Honoiki Cottages Condominium dated June 12, 2006, recorded in the said Bureau of Conveyances as Document No. 2006-112872.
8. As to UNIT A:  
  
The terms and provisions contained in Deed dated July 24, 2006, recorded as Document No. 2006-157241. Said Deed includes, but is not limited to, matters relating to right of first refusal.
9. As to UNIT B:  
  
The terms and provisions contained in Deed dated July 24, 2006, recorded as Document No. 2006-157242. Said Deed includes, but is not limited to, matters relating to right of first refusal.

10. Pending Civil No. 06-1-0297 filed in the Circuit Court of the Second Circuit, State of Hawaii on August 21, 2006, Pacific Energy Strategies, LLC, a Hawaii limited liability company, Plaintiff, vs. Charles T. Lydgate and Amelita P. Lydgate, Trustees under the Charles & Amelita Lydgate Family Trust dated November 19, 2002, and Eric Peterson and Camille M. Peterson, Trustees under the Peterson Family Trust dated March 15, 2005, et al., Defendants.
11. Application for Mechanics' and Materialman's Lien dated August 3, 2006, filed as M. L. No. 06-1-0017 in the Circuit Court of the Second Circuit, State of Hawaii; Pacific Energy Strategies, LLC, a Hawaii limited liability company, "Lienor," vs. Charles T. Lydgate and Amelita P. Lydgate, Trustees under the Charles & Amelita Lydgate Family Trust dated November 19, 2002, Eric Peterson and Camille M. Peterson, Trustees under the Peterson Family Trust dated March 15, 2005, Mortgage Electronic Registration Systems, Inc., solely as a nominee for Countrywide Home Loans, Inc., et al., "Lienee;" Amount - \$560,215.47.

Above Application was recorded as Document No. 2006-163630.

12. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.