

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Victor Y. Taguma
Business Address 1846 Center Avenue, Martinez, CA 94553

Project Name (\*): LOT 172 ESTATES
Address: 4127 Puaole Street, Lihue, HI 96766

Registration No. 6128
Effective date: February 27, 2007
Expiration date: March 27, 2008

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

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

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

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

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

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

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL NOTICE:**

This is a condominium project, not a subdivision. There are county restrictions on the number of dwellings, or other structures, which may be built upon the property. therefore, unless the purchaser is purchasing an existing dwelling, there is no assurance that the purchaser will be able to build a dwelling on the property. There also is no assurance that the purchaser will be able to convert an existing non-residential structure to residential use. The purchaser should consult with the appropriate county agencies to determine whether the purchaser may build a dwelling unit, or another type of structure, upon the property.

1. There are presently NO RESIDENTIAL STRUCTURES on Units A and B of the Project. The only buildings on these Units are shade structures, each of which may be defined as an "apartment" under the Condominium Property Act.

2. Issuance of an effective date for this Public Report does not constitute an approval of the project by the Real Estate Commission or other agency, nor does it imply that all County codes, ordinances, or other requirements have been complied with.

3. This project does not involve the sale of individual subdivided lots. The land area beneath and immediately adjacent to each unit, as shown on the Condominium Map, is designated as a limited common element for that unit and does not represent a legally subdivided lot. The dotted lines on the Condominium Map merely represent the location of the limited common element assigned to each unit.

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

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

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Victor Y. Taguma Phone: 808-246-3435  
Name\* (Business)  
1846 Center Avenue  
Business Address  
Martinez, CA 94553

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\*: N/A - see pages 2 and 20 Phone: \_\_\_\_\_  
Name (Business)  
Business Address  
\_\_\_\_\_

Escrow Security Title Corporation Phone: 808-245-6975  
Name (Business)  
4370 Kukui Grove Street, Suite 203  
Business Address  
Lihue, HI 96766

General Contractor\*: C. Shigematsu Construction, LLC Phone: 808-332-9047  
Name (Business)  
4115 Koloa Road, Koloa, HI 96756  
Business Address

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

Attorney for Developer: June C. Ikemoto Phone: 808-246-3435  
Name (Business)  
4442 Hardy Street, Suite 207  
Business Address  
Lihue, HI 96766

\* 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. 2006-121902  
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 to Declaration of Condominium Property Regime of Lot 172 Estates and Condominium Map No. 4286 dated July 24, 2006, recorded in the Bureau of Conveyances as Document No. 2006-139382

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. 4286  
 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]:

Amended Site Plan Condominium Map for Lot 172 Estates, recorded July 31, 2006

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. 2006-121903  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

The Developer has reserved the right to amend the Declaration and Condominium Map for the purpose of adjusting the plan or description of any apartment which may be improved, enlarged, or altered, upon the condition that no such amendment shall in any way alter any apartment or common interest thereof which has been conveyed by the Developer prior to the filing of such amendment in the Bureau of Conveyances of the State of Hawaii.



[ ] 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: 4127 Puaole Street Tax Map Key (TMK): (4) 3-6-019-008  
Lihue, HI 96766

[X] Address [X] TMK is expected to change because each apartment is entitled to receive its own street address and TMK number.

Land Area: 13,000 [X] square feet [ ] acre(s) Zoning: residential

Fee Owner: Victor Y. Taguma  
Name

Lessor: N/A  
Name  
Business 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 \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other metal and shade cloth

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning	
<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 shade sheds	<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 contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

Pets: Pets may be kept consistent with any applicable law or restrictive covenants applicable to the project. Animals shall not include those defined as pests under HRS § 150-A-2 and prohibited from importation under HRS § 141-2, § 150-5 or § 150-6.

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

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

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>A</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>20</u>	<u>shade shed</u>
<u>B</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>20</u>	<u>shade 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:

Perimeter wall to perimeter wall, floor to exterior of roof.

Permitted Alterations to Apartments:

Individual unit owners may, with the approval of a majority of the Board of Directors, remodel, expand, or otherwise alter their unit, provided same is permitted by and done in complete accordance with all applicable ordinances, codes, rules, regulations, or other requirements in force at the time of said construction.

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

7. Parking Stalls:

Total Parking Stalls:	<u>4</u>			
	<u>Regular</u>	<u>Compact</u>	<u>Tandem</u>	
	<u>Covered</u>	<u>Covered</u>	<u>Open</u>	<u>TOTAL</u>
Assigned (for each unit)	<u>0</u>	_____	_____	<u>0</u>
Guest	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____
Other: _____	_____	_____	_____	_____
Total Covered & Open:	<u>0</u>	_____	_____	<u>0</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.

- 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):

N/A

11. Conformance to Present Zoning Code

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

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

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

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

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

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

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

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

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

described in Exhibit A.

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit A.

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:

There are two apartments, each of which will burden the common elements equally. Therefore, the assessment of undivided interest for both common expenses and for voting is fifty percent (50%) for each apartment.

- 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 B describes the encumbrances against the title contained in the title report dated June 13, 2006 and issued by Security Title Corporation.

Blanket Liens:

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
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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:**

Construction is completed. The sheds received final building approval in June 2006.

H. **Project Phases:**

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

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

IV. CONDOMINIUM MANAGEMENT

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

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

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

- not affiliated with the Developer  the Developer or Developer's affiliate
- self-managed by the Association of Apartment Owners  Other: \_\_\_\_\_

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

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

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

Exhibit C 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 \_\_\_\_\_

\*Each unit owner is responsible for installing his own meters and utilities.

## 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 D contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated August 1, 2006  
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.
- Other Specimen Apartment Deed

### 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 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. 6128 filed with the Real Estate Commission on August 11, 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**

This is a condominium project, not a subdivision. Units purchased are not on subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report, especially the recorded restrictive covenants for the subdivision within which this project is located. Among other things, the restrictive covenants govern land use, building type and materials, possession of animals, and cultivation of crops. You should also conduct your own investigations and ascertain the validity of information provided.

Residential improvements are not yet located on Units A and B of the project. There are two shade houses on the Project. These can be replaced by or remodeled as allowed by law and project documents. The prospective purchaser shall have the right to undertake such work at purchaser's expense. The purchaser shall also, in such event, file the "as-built" certificate within 30 days of completion of the residence in conformance with Section 514A-12, Hawaii Revised Statutes, and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the residence. The County of Kauai Planning Department, in order to process the necessary permits for the construction of any other structure, requires authorization from at least 75% of the legal and equitable ownership of the entire project, consistent with the Declaration and the Bylaws ("condominium documents").

Except as limited specifically by the condominium documents and subdivision restrictive covenants, all uses permitted in the residential zone are permitted. Uses in one zone are not the same as in the other, and the prospective purchaser should consult the appropriate county agency for information on uses and construction in the respective zones.

A buyer should understand that all development and use of the property shall be in compliance with County codes and ordinances, that owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots, and that owners who develop their limited common element later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

**DISCLOSURE RE: SELECTION OF REAL ESTATE BROKER** This public report shall not bind a purchaser to the sale of a unit until (1) the Developer first submits to the Real Estate Commission a duly executed disclosure abstract identifying the designated sales agent, and duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, and (2) give a copy of said disclosure abstract to the purchaser together with a copy of the Public Report.

- 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.

Victor Y. Taguma  
 Printed Name of Developer

By: *Victor Y. Taguma* 8-19-06  
 Duly Authorized Signatory\* Date

Victor Y. Taguma  
 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.***

## EXHIBIT A

### COMMON ELEMENTS OF THE PROJECT

One freehold estate is hereby designated of all the remaining portions of the Project, herein referred to as "common elements," including specifically, but not limited to:

- (a) The land in fee simple;
- (b) All commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation, and telephone;
- (c) Any and all other future elements and facilities in common use or necessary to the Project.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium unit(s) which are filed of record.

### LIMITED COMMON ELEMENTS

Certain parts of the common elements, hereinafter referred to as the "limited common elements," are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which Unit 1 and Unit 2 are located, shown and designated on the Condominium Map and the table below.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
1	5,973 square feet
2	5,775 square feet

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 unit to which said limited common elements are appurtenant.

NOTE: The foregoing are not subdivided lots.

EXHIBIT B

ENCUMBRANCES AGAINST TITLE

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions as contained in:

DECLARATION OF RESTRICTIVE COVENANTS

Dated: July 11, 1967  
Book: 5723  
Page: 70

to which reference is hereby made, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c)

3. Easement "R" for electric transformer purposes, as shown on File Plan No. 1041.
4. A 15-foot wide building setback line, as shown on File Plan No. 1041.
5. DECLARATION OF CONDOMINIUM PROPERTY REGIME OF LOT 172 ESTATES AND CONDOMINIUM MAP NO. 4286

Dated: June 27, 2006  
Document No.: 2006-121902

AS AMENDED BY:

AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY REGIME OF LOT 172 ESTATES AND CONDOMINIUM MAP NO. 4286

Dated: July 24, 2006  
Document No.: 2006-139382

6. BYLAWS OF LOT 172 ESTATES

Dated: June 22, 2006  
Document No.: 2006-121903

7. Condominium Map No. 4286
8. Real property taxes that may be due and owing. Reference is made to the Tax Department of the County of Kauai.

EXHIBIT C

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>
A	\$20 x 12 months = \$240
B	\$20 x 12 months = <u>240</u>
	\$480

*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

\$40 x 12 months = \$480

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL

I, Victor Y. Taguma, as agent for/and/or employed by \_\_\_\_\_,  
 the condominium managing agent/developer for the  
Lot 172 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.

*Victor Y. Taguma*  
 Signature

6-21-06  
 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 D

### SUMMARY OF SALES CONTRACT

The Seller intends to use the Hawaii Association of Realtors' form of Deposit Receipt, Offer and Acceptance ("DROA") as the sales contract for the sale of apartments in the Project. The DROA contains the purchase price, description and location of the apartment and other terms and conditions under which a Buyer will agree to buy an apartment.

Among other things, the DROA:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how the Buyer will pay the purchase price.
2. Identifies the escrow agent and states that Buyer's deposit will be held in escrow until the sale is closed or canceled.
3. Requires that Buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Provides the following remedies in the event of default under the DROA:

By Buyer:

- a. Seller may bring an action against Buyer for breach of contract.
- b. Seller may retain Buyer's deposit(s) as liquidated damages.
- c. Buyer shall be responsible for all expenses incurred.

By Seller:

- a. Buyer may bring an action against Seller for breach of contract.
- b. Buyer may bring an action compelling Seller to perform under contract.
- c. Seller shall be responsible for all expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

5. Allocation of payment of closing costs.
6. Provides that the property is sold "as is."

## EXHIBIT E

### SUMMARY OF ESCROW AGREEMENT

An Escrow Agreement allows the condominium Buyer's money to be held by a neutral party, the Escrow Agent, until the Seller can deliver good and marketable title to the apartment. The Escrow Agreement for this Project provides for, among other things:

1. Security Title Corporation is the Escrow Agent.
2. That upon execution of a sales contract, the Developer shall deliver all money received to the Escrow Agent.
3. That no money will be released by the Escrow Agent until the Real Estate Commission has issued an effective date for a Final Public Report.
4. That Buyer shall receive all public documents relating to the Project.
5. That a Buyer's money shall be returned to him if he exercises certain rights he may have to cancel his sales contract as provided by law, if that is his wish, or if the Seller is unable to provide title to the apartment.
6. That upon the Seller's providing good title to the apartment, the Buyer's money shall be turned over to the Seller.
7. That the Escrow Agent will record with the State of Hawaii all documents requiring such.
8. That if the Buyer is unable to perform and has money on deposit with Escrow Agent, these monies will be turned over to the Seller.