

AMENDED  
DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM

|                          |  |
|--------------------------|--|
| CONDOMINIUM PROJECT NAME | ROYAL KAI LANI                                 |
| Project Address          | 2452 Kalakaua Avenue<br>Honolulu, Hawaii 96815 |
| Registration Number      | 6184 (Conversion)                              |
| Effective Date of Report | <b>December 15, 2009</b>                       |
| Developer(s)             | RKL BEACHSIDE, LLC                             |

**Preparation of this Report**

The Developer prepared this report to disclose relevant information, including "material facts", that are reasonably known to the Developer about the condominium project covered by this report. This report has been prepared pursuant to the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, as amended from time to time. The law defines "material facts" to mean "any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale."

This report has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts or all pertinent changes, or both, about the project have been fully or adequately disclosed; and (3) is not the Commission's judgment of the value or merits of the project.

This report may be used by the Developer for promotional purposes only if it is used in its entirety. No person shall advertise or represent that the Commission has approved or recommended the project, this report or any of the documents submitted with Developer's application for registration of this project.

This report will be amended if, after the effective date of this report, any changes, either material or pertinent changes, or both, occur regarding the information contained in or omitted from this report. In that case, the Developer is required to submit immediately to the Commission an amendment to this report or an amended Developer's Public Report, clearly reflecting the changes, including any omitted material facts, together with such supporting information as may be required by the Commission. In addition, the Developer may choose at any time to change or update the information in this report. Annually, at least thirty days prior to the anniversary date of the Effective Date of this report, the Developer shall file an annual report to update the material contained in this report. If there are no changes, the Developer is required to state that there are no changes. The Developer's obligation to amend this report or to file annual reports ends when the initial sales of all units in the project have been completed.

Purchasers are encouraged to read this report carefully and to seek professional advice before signing a sales contract for the purchase of a unit in the project.

Signing a sales contract may legally bind a purchaser to purchase a unit in the project, though a purchaser may have rights to cancel or rescind a sales contract under particular circumstances that may arise.

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*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.*

## **SPECIAL ATTENTION**

[Use this page for special or significant matters which should be brought to the purchaser's attention and that are not covered elsewhere in this report.]

THE PROJECT AND IMPROVEMENTS WERE ORIGINALLY CONSTRUCTED IN THE MID 1960s AND, THEREFORE, ARE IN EXCESS OF FORTY (40) YEARS OLD. THE MECHANICAL, ELECTRICAL, AND PLUMBING INSTALLATIONS WILL NOT BE REPLACED BY DEVELOPER, AND THEREFORE WILL HAVE TO BE REPAIRED AND/OR REPLACED IN THE FUTURE. THE DEVELOPER HAS OBTAINED A STUDY DATED APRIL 25, 2006, PREPARED BY ARMSTRONG CONSULTING, INC., SETTING FORTH AN ESTIMATE OF INITIAL MAINTENANCE FEE DISBURSEMENTS, MAINTENANCE FEE ALLOCATIONS, AND GENERAL OPERATING BUDGET, AND THE BUDGETED EXPENDITURE FOR RESERVE CONTRIBUTION WAS BASED ON A PRELIMINARY RESERVE STUDY CONDUCTED BY ARMSTRONG CONSULTING, INC. PROSPECTIVE PURCHASERS SHOULD REVIEW THE STUDY, WHICH IS ATTACHED TO THIS REPORT AS EXHIBIT "K". OWNERS OF UNITS IN THE PROJECT WILL HAVE TO FUND RESERVES TO PAY FOR THE UPKEEP, REPAIR, OR REPLACEMENT OF THOSE PARTS OF THE PROJECT THAT THE ASSOCIATION IS OBLIGATED TO MAINTAIN. THE DEVELOPER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING THE RESERVE ESTIMATES SET FORTH IN THE ABOVE STUDY.

THE DEVELOPER HAS DISCLOSED THAT THE UNITS IN THE PROJECT WILL BE OFFERED AND SOLD WITHOUT WARRANTIES FROM THE DEVELOPER AS TO THE HABITABILITY, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR USE OR PURPOSE, WORKMANSHIP, MATERIALS, OR DEFECTS OF ANY KIND AND WITHOUT ANY OTHER EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE UNIT AND ANY FURNISHINGS, FIXTURES OR APPLIANCES IN THE UNIT, THE PROJECT OR ANY OF THE COMMON ELEMENTS OR LIMITED COMMON ELEMENTS OR LIMITED COMMON ELEMENTS. EACH UNIT SHALL BE SOLD BY THE DEVELOPER AND ACCEPTED BY THE PURCHASER STRICTLY IN "AS IS" CONDITION AS OF THE DATE OF CLOSING. NO REPRESENTATIONS OF ANY KIND ARE MADE ABOUT INCOME POTENTIAL OR FINANCIAL BENEFITS FROM OWNERSHIP.

THE PROJECT CONTAINS TEN (10) RESIDENTIAL UNITS AND TWO (2) COMMERCIAL UNITS. THE RESIDENTIAL UNITS EACH CONTAIN EIGHT (8) GUEST ROOMS AND EIGHT (8) BATHROOMS. NONE OF THE RESIDENTIAL UNITS CURRENTLY CONTAIN A KITCHEN AS THAT TERM IS DEFINED IN THE LAND USE ORDINANCE OF THE CITY AND COUNTY OF HONOLULU ("LUO"). THE DEVELOPER MAY, BUT IS NOT OBLIGATED TO, REDESIGN AND REMODEL ONE OR MORE OF THE RESIDENTIAL UNITS AND INSTALL A KITCHEN PRIOR TO SELLING SUCH A UNIT. UNDER THE CONDOMINIUM DOCUMENTS, A PURCHASER OF A RESIDENTIAL UNIT MAY ALSO REDESIGN AND REMODEL THE UNIT AND INSTALL A KITCHEN IN THE UNIT, PROVIDED THE OWNER COMPLIES WITH ALL REQUIREMENTS SET FORTH THEREIN. IN ADDITION TO THE REQUIREMENTS SET FORTH IN THE CONDOMINIUM DOCUMENTS, SUCH A PURCHASER MUST ALSO COMPLY WITH APPLICABLE BUILDING CODE REQUIREMENTS. BEFORE PURCHASING A UNIT, THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES REGARDING ALL PERMITS THAT ARE REQUIRED FOR ANY PLANNED REMODELING OF THE UNIT OR OTHERWISE REQUIRED FOR PURCHASER'S USE OF THE PROPERTY.

I. SUMMARY OF CHANGES FROM EARLIER DEVELOPER'S PUBLIC REPORT.

The following is a summary of the changes made from the earlier Developer's Public Report:

1. Original Declaration, By-Laws and Condominium Map. Following the issuance of an effective date for the Developer's Public Report, the Declaration of Condominium Property Regime dated November 30, 2006 was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2007-001681 (the "Declaration"), the By-Laws of the Association of Unit Owners dated November 30, 2006 were recorded in the Bureau of Conveyances as Document No. 2007-001682 (the "By-Laws"), and the Condominium Map was filed in the Bureau of Conveyances as Condominium Map No. 4359 (the "Condominium Map").

2. Amendment and Restatement of Declaration and By-Laws, and Amendment of Condominium Map. Pursuant to the rights of Developer under the Declaration, the Declaration was amended and restated by that certain instrument dated \_\_\_\_\_, 2009, and recorded in the Bureau of Conveyances as Document No. \_\_\_\_\_, and pursuant to the rights of Developer under the By-Laws, the By-Laws were amended and restated by that certain instrument dated \_\_\_\_\_, 2009, and recorded in the Bureau of Conveyances as Document No. \_\_\_\_\_. Pursuant to the rights of the Developer under the Declaration, the Condominium Map was amended by that certain instrument dated \_\_\_\_\_, 2009, and recorded in the Bureau of Conveyances as Document No. \_\_\_\_\_.

The main changes to the original Declaration and Condominium Map pertain to the layout and use of the Residential Units as discussed below. The amended Declaration and Condominium Map also reflect the change in square footage of both the Residential Units and the Commercial Units, and the percentage of common interest appurtenant to each of those Units.

3. The Residential Units. The Project contains ten (10) Residential Units and two (2) Commercial Units. The Residential Units each contain eight (8) guest rooms and eight (8) bathrooms. None of the Residential Units currently contain a kitchen as that term is defined in the Land Use Ordinance of the City and County of Honolulu ("LUO"). Originally, Developer planned to convert and sell each of the Residential Units as 3 bedroom, 3½ bath condominium units with a full kitchen. Although Developer may still redesign and remodel one or more of the Residential Units, Developer does not immediately plan to redesign and remodel any of the Residential Units, AND WILL BE OFFERING FOR SALE THE RESIDENTIAL UNITS IN THEIR CURRENT CONFIGURATION WITH EACH OF THE UNITS CONTAINING EIGHT (8) GUEST ROOMS AND EIGHT (8) BATHROOMS AND NO KITCHEN. In other words, it will be up to each Purchaser to, either convert their Unit to a Unit with separate bedrooms, bathrooms and a kitchen, or leave their Unit as-is with 8 guest rooms, 8 baths and no kitchen.

4. Use of Residential Units. Originally, the Declaration called for the Residential Units to be occupied and used for permanent and transient residential purposes, or such use permitted under applicable regulations, zoning and land use laws, except any time-sharing purpose or plan in any form was prohibited. Under the amended Declaration, the Residential Units shall be occupied and used as living accommodations for such purposes and uses permitted under applicable regulations, zoning, and land use laws, including, but not limited to, dwelling, lodging, and time sharing uses (as such terms are defined in the LUO), and fractional ownership uses.

5. Pets. The restriction on pets has been removed.

II. SUMMARY OF CHANGES TO PAGES AND EXHIBITS OF THIS PUBLIC REPORT.

As a result of the changes outlined above, the following pages and exhibits of this Public Report have changed:

1. Page 1a has been revised, and new pages 1b and 1c have been added to describe the changes made to this Public Report.

2. Page 3 has been revised to reflect the new square footages of the Units and optional floor plans.

3. Page 5 has been revised to reflect that the prohibition against pets has been removed. Article V, Section 6(k) of the By-Laws and Section A.2 of the House Rules contain provisions regarding the Project's revised pet policy. Page 5 has been revised to reflect the updated title report.

4. Page 6 has been revised to reflect the change in use of the Units.

5. Page 7 has been revised to reflect the updated report by KAI Hawaii Inc. dated September 30, 2009.

6. Page 10 has been revised to reflect the recording information of the Declaration, By-Laws and Condominium Map, and the amendments thereto.

7. Page 14 has been revised to reflect that, even if the Developer may redesign and remodel one or more of the Residential Units in the future, Developer does not have immediate plans to redesign and remodel any of the Residential Units.

8. Pages 18 – 18d have been amended as follows:

Section 6.10. This section has been amended to reflect that the Project is currently operated as a hotel, and may continue to be operated as a hotel and/or condominium resort project even after Developer starts selling the Units.

Section 6.11. This section has been amended to reflect that Developer, as of the effective date of this Public Report, has not executed a listing agreement for the sale of the Units in the Project with a duly licensed Hawaii real estate broker.

Section 6.14. This section has been added to inform Purchasers that some Units may be converted into a single dwelling unit with a kitchen while other Units may remain in their current configuration as lodging units with eight (8) guest rooms and eight (8) bathrooms; and that those Units may be used by different groups or individuals for relatively short periods of time. This section also provides that the installation of a second elevator may be undertaken by the Association pursuant to the affirmative vote or written consent of a majority of the Residential Owners, and the cost and expense of installing and maintaining the second elevator shall be charged to the Owners of the Residential Units in proportion to the Common Interest appurtenant to each of said Residential Units.

Section 6.15 This section has been added to inform Purchasers that the Project is currently operated as a hotel and may continue to be operated as a hotel.

Section 6.16. This section has been added to inform Purchasers that some Units may be sold subject to a fractionalized interest program.

9. Exhibits "A" and "E" have been revised to reflect changes to the units and appurtenant limited common elements.

10. Exhibit "F" has been revised to reflect the information in the updated title report referred to in Section 1.12 herein.

11. Exhibit "I" has been supplemented with a letter from KAI Hawaii dated September 30, 2009.

12. Exhibit "J" has been revised to reflect that the Developer shall have the right to continue to operate the Project as a hotel and/or condominium resort and to conduct any and all activities associated with such an operation.

13. Exhibit "K" has been updated to reflect new maintenance fees for each unit as a result of the changes in percentages of common interest.

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## **General Information On Condominiums**

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. 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 and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

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

You will be entitled to exclusive ownership and possession of your unit. Subject to the documents governing them, condominium units may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift or operation of law.

Your unit will, however, be part of the group of units that comprise the condominium project. Study the project's Declaration of Condominium Property Regime, Bylaws of the Association of Unit Owners, Condominium Map and House Rules, if any, which are being concurrently delivered to you with this report. These documents contain important information on the use and occupancy of the units and the common elements of the project, as well as the rules and regulations of conduct for unit owners, tenants and guests.

## **Operation of the Condominium Project**

The Association of Unit Owners is the entity through which unit owners may take action with regard to the administration, management and operation of the condominium project. Each unit 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 a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

Until there is a sufficient number of purchasers of units to elect a majority of the Board, it is likely at first 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 purchasers should understand that it is important to all unit owners that the transition of control from the Developer to the unit owners be accomplished in an orderly manner and in a spirit of cooperation.

**1. THE CONDOMINIUM PROJECT**

**1.1 The Underlying Land**

|  |  |
|--|--|
| Fee Simple or Leasehold Project  | <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit) |
| Developer is the Fee Owner   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  |
| Fee Owner's Name if Developer is not the Fee Owner                                     | Developer is the Fee Owner   |
| Address of Project   | 2452 Kalakaua Avenue<br>Honolulu, Hawaii 96815   |
| Address of Project is expected to change because                                       | Not expected to change   |
| Tax Map Key (TMK)  | (1) 2-6-23-4   |
| Tax Map Key is expected to change because  | The City and County of Honolulu will assign CPR numbers for each unit  |
| Land Area  | 5,000 square feet  |
| Developer's right to acquire the Property if Developer is not the Fee Owner (describe) | N/A  |

**1.2 Buildings and Other Improvements**

|  |                                       |
|--|---------------------------------------|
| Number of Buildings  | 1                                     |
| Floors Per Building  | 12                                    |
| Number of New Building(s)  | None                                  |
| Number of Converted Building(s)  | 1                                     |
| Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.) | Concrete and allied building material |

**1.3 Unit Types and Sizes of Units**

| Unit Type                      | Quantity | BR/Bath | Net Living Area | Net Other Areas | Other Areas (lanai, garage, etc) | Total Area |
|--------------------------------|----------|---------|-----------------|-----------------|----------------------------------|------------|
| Comm.                          | 1        | n/a     | 1,195 sq. ft.   | 400 sq. ft.     | entry area                       | 1,595sq.ft |
| Comm.                          | 1        | n/a     | 2,679 sq. ft.   | 1,171 sq. ft.   | offices                          | 3,850sq.ft |
|                                |          |         |                 |                 | maint. room                      |            |
|                                |          |         |                 |                 | break room                       |            |
|                                |          |         |                 |                 | toilet                           |            |
| Res.                           | 1        | n/a     | 2,535 sq. ft.   | 824             | outdoor lanai                    | 3,359sq.ft |
| Res.                           | 9        | n/a     | 2,528 sq. ft.   |                 |                                  | 2,528sq.ft |
|                                |          |         |                 |                 |                                  |            |
|                                |          |         |                 |                 |                                  |            |
| See Exhibit <u>    "A"    </u> |          |         |                 |                 |                                  |            |

|    |                              |
|----|------------------------------|
| 12 | <b>Total Number of Units</b> |
|----|------------------------------|

Note: Net Living Area is the floor area of the unit measured from the interior surface of the perimeter walls of the unit. Other documents and maps may give floor area figures that differ from those above because a different method of determining floor area may have been used.

**1.4 Parking Stalls**

|   |  |
|---|--|
| Total Parking Stall in the Project:   | 25   |
| Number of Guest Stalls in the Project:  | 3  |
| Number of Parking Stalls Assigned to Each Unit:   | Commercial Units - 1 Residential Units - 2 |
| Attach Exhibit "A" specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open). |  |
| If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights.   |  |
| See Exhibit "B" regarding location of parking stalls in a neighboring building, payment of a valet service fee, and other details.  |  |

**1.5 Boundaries of the Units**

|  |
|--|
| Boundaries of the unit:<br><br>See Exhibit "C" |
|--|

**1.6 Permitted Alterations to the Units**

|  |
|--|
| Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project):<br><br>See Exhibit "D" |
|--|

**1.7 Common Interest**

|  |
|--|
| <u>Common Interest:</u> Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit'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 unit owners. The common interest for each unit in this project, as described in Declaration, is: |
| Described in Exhibit "A".  |
| As follows:  |

**1.8 Recreational and Other Common Facilities (Check if applicable):**

|                                     |                          |
|-------------------------------------|--------------------------|
| <input type="checkbox"/>            | Swimming pool            |
| <input type="checkbox"/>            | Laundry Area             |
| <input type="checkbox"/>            | Storage Area             |
| <input type="checkbox"/>            | Tennis Court             |
| <input type="checkbox"/>            | Recreation Area          |
| <input type="checkbox"/>            | Trash Chute/Enclosure(s) |
| <input type="checkbox"/>            | Exercise Room            |
| <input type="checkbox"/>            | Security Gate            |
| <input type="checkbox"/>            | Playground               |
| <input checked="" type="checkbox"/> | Other (describe): Lobby  |

**1.9 Common Elements**

**Common Elements:** Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.

Described in Exhibit "E".

Described as follows:

| Common Element | Number |
|----------------|--------|
| Elevators      | 1      |
| Stairways      | 2      |
| Trash Chutes   | None   |

**1.10 Limited Common Elements**

**Limited Common Elements:** A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.

Described in Exhibit "E".

Described as follows:

**1.11 Special Use Restrictions**

The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.

|                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/>            | Pets:                                  |
| <input type="checkbox"/>            | Number of Occupants:                   |
| <input type="checkbox"/>            | Other:                                 |
| <input checked="" type="checkbox"/> | There are no special use restrictions. |

**1.12 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 a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

Exhibit "F" describes the encumbrances against title contained in the title report described below.

Date of the title report: September 28, 2009

Company that issued the title report: Title Guaranty of Hawaii, Inc.

**1.13 Uses Permitted by Zoning and Zoning Compliance Matters**

| Uses Permitted by Zoning  |                            |              |   |                            |
|---|----------------------------|--------------|---|----------------------------|
|   | Type of Use                | No. of Units | Use Permitted by Zoning   | Zoning                     |
| <input type="checkbox"/>  | Residential                | 10           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | WSD/Resort Mixed Use Prec. |
| <input type="checkbox"/>  | Commercial                 | 2            | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | WSD/Resort Mixed Use Prec. |
| <input type="checkbox"/>  | Mix Residential/Commercial | 12           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | WSD/Resort Mixed Use Prec. |
| <input type="checkbox"/>  | Hotel                      | 10           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | WSD/Resort Mixed Use Prec. |
| <input checked="" type="checkbox"/>   | Timeshare                  | 10           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | WSD/Resort Mixed Use Prec. |
| <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 type="checkbox"/>  | Other (Specify):           |              | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                            |
| Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws? |                            |              | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |                            |
| Variances to zoning code have been granted.   |                            |              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                            |
| Describe any variances that have been granted to zoning code                            |                            |              |   |                            |

**1.14 Other Zoning Compliance Matters**

| Conforming/Non-Conforming Uses, Structures and Lots   |                                     |                          |                          |
|---|-------------------------------------|--------------------------|--------------------------|
| <p>In general, a non-conforming use, structure or lot is a use, structure or lot that was lawful at one time but that does not now conform to present zoning requirements. Under present zoning requirements, limitations may apply to extending, enlarging or continuing the non-conformity and to altering and repairing non-conforming structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.</p> <p>If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.</p> <p>A purchaser may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure or lot.</p> |                                     |                          |                          |
|   | Conforming                          | Non-Conforming           | Illegal                  |
| Uses  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Structures  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lot   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>If a non-conforming use, structure or lot exists in this project, this is what will happen under existing laws or codes if the structure is damaged or destroyed:</p>  |                                     |                          |                          |
|   |                                     |                          |                          |

**1.15 Conversions**

|   |  |
|---|--|
| <p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>   | <p><input checked="" type="checkbox"/> <b>Applicable</b></p> <p><input type="checkbox"/> <b>Not Applicable</b></p> |
| <p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units:</p> <p>See Exhibit "I", Condition Assessment Reports from KAI Hawaii (9/14/06 and 9/30/09) and Lincolne Scott (9/25/06).</p> |  |
| <p>Developer's statement of the expected useful life of each item reported above:<br/>In accordance with Section 514B-84(a)(1)(B), HRS, Developer is not making any representations regarding the expected useful life of the structural components and the mechanical and electrical installations of the Project.</p>   |  |
| <p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p> <p>N/A</p>   |  |
| <p>Estimated cost of curing any violations described above:</p> <p>N/A</p>  |  |

|  |  |
|--|--|
| <p><b>Verified Statement from a County Official</b></p>  |  |
| <p>Regarding any converted structures in the project, attached as Exhibit "<u>G</u>" is a verified statement signed by an appropriate county official which states that either:</p> <p>(A) The structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built, and specifying, if applicable:</p> <ul style="list-style-type: none"> <li>(i) Any variances or other permits that have been granted to achieve compliance;</li> <li>(ii) Whether the project contains any legal non-conforming uses or structures as a result of the adoption or amendment of any ordinances or codes; and</li> <li>(iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;</li> </ul> <p style="text-align: center;">or</p> <p>(B) Based on the available information, the county official cannot make a determination with respect to the foregoing matters in (A) above.</p> |  |
| <p>Other disclosures and information:</p> <p>See Exhibit "H", Conditional Use Permit 2005/CUP-86 for off-site parking.</p>   |  |

**1.16 Project In Agricultural District**

|   |   |
|---|---|
| <p><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b><br/> <b>If answer is "Yes", provide information below.</b></p>  | <p><input type="checkbox"/> Yes<br/> <input checked="" type="checkbox"/> No</p> |
| <p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable state and county land use laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation.</p>  |   |
| <p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable county real property tax laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.</p> |   |
| <p>Other disclosures and information:</p>   |   |

**1.17 Project with Assisted Living Facility**

|   |   |
|---|---|
| <p><b>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS?</b><br/> <b>If answer is "Yes", complete information below.</b></p> | <p><input type="checkbox"/> Yes<br/> <input checked="" type="checkbox"/> No</p> |
| <p>Licensing requirements and the impact of the requirements on the costs, operations, management and governance of the project.</p>                                      |   |
| <p>The nature and the scope of services to be provided.</p>   |   |
| <p>Additional costs, directly attributable to the services, to be included in the association's common expenses.</p>  |   |
| <p>The duration of the provision of the services.</p>   |   |
| <p>Other possible impacts on the project resulting from the provision of the services.</p>  |   |
| <p>Other disclosures and information.</p>   |   |

## 2. PERSONS CONNECTED WITH THE PROJECT

|   |   |
|---|---|
| <p><b>2.1 Developer(s)</b></p>  | <p>Name: RKL Beachside, LLC</p> <p>Business Address: 2085 Ala Wai Blvd., Unit 20-2<br/>Honolulu, Hawaii 96815</p> <p>Business Phone Number : 808) 924-9937</p> <p>E-mail Address:</p>   |
| <p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p> | <p>H. Michael Richardson, its Manager</p> <p>Betty B. Klinedinst, Charles B. Klinedinst, Sally S. Klinedinst, H. Michael Richardson, Robin Rita Richardson, and Pensa Nuwind, LLC, its Members</p>                                  |
| <p><b>2.2 Real Estate Broker</b></p>  | <p>Name: See page 18d, Sec. 6.11</p> <p>Business Address:</p> <p>Business Phone Number:</p> <p>E-mail Address:</p>  |
| <p><b>2.3 Escrow Depository</b></p>   | <p>Name: Title Guaranty Escrow Services, Inc.</p> <p>Business Address: 235 Queen Street, 1st Floor<br/>Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-0211</p>  |
| <p><b>2.4 General Contractor</b></p>  | <p>Name: None</p> <p>Business Address:</p> <p>Business Phone Number:</p>  |
| <p><b>2.5 Condominium Managing Agent</b></p>  | <p>Name: See page 18d, Sec. 6.12</p> <p>Business Address:</p> <p>Business Phone Number:</p>   |
| <p><b>2.6 Attorney for Developer</b></p>  | <p>Name: Bradley R. Pulice, Esq. &amp; Anders G. O. Nervell, Esq.</p> <p>Business Address: Clay Chapman Iwamura Pulice &amp; Nervell<br/>700 Bishop St., Suite 2100, Hon. HI 96813</p> <p>Business Phone Number: (808) 535-8400</p> |

### 3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances (Regular System) or filing in the Office of the Assistant Registrar of the Land Court, or both, a Declaration of Condominium Property Regime, a Condominium Map and the Bylaws of the Association of Unit Owners. The Condominium Property Act (Chapter 514B, HRS), the Declaration, Bylaws and House Rules control the rights and obligations of the unit owners with respect to the project and the common elements, to each other, and to their respective units.

#### 3.1 Declaration of Condominium Property Regime

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

| Land Court or Bureau of Conveyances | Date of Document  | Document Number |
|-------------------------------------|-------------------|-----------------|
| Bureau of Conveyances               | November 30, 2006 | 2007-001681     |

| Amendments to Declaration of Condominium Property Regime |                  |                 |
|--|------------------|-----------------|
| Land Court or Bureau of Conveyances                      | Date of Document | Document Number |
| Bureau of Conveyances                                    | November 9, 2009 | 2009-187940     |
| Bureau of Conveyances                                    | November 9, 2009 | 2009-187941     |
|  |                  |                 |
|  |                  |                 |

#### 3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit 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 that affect how the condominium project will be governed.

| Land Court or Bureau of Conveyances | Date of Document  | Document Number |
|-------------------------------------|-------------------|-----------------|
| Bureau of Conveyances               | November 30, 2006 | 2007-001682     |

| Amendments to Bylaws of the Association of Unit Owners |                  |                 |
|--|------------------|-----------------|
| Land Court or Bureau of Conveyances                    | Date of Document | Document Number |
| Bureau of Conveyances                                  | November 9, 2009 | 2009-187942     |
|  |                  |                 |
|  |                  |                 |

#### 3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

|   |      |
|---|------|
| Land Court Map Number   |      |
| Bureau of Conveyances Map Number  | 4359 |
| Dates of Recordation of Amendments to the Condominium Map:<br>December 10, 2009 |      |

**3.4 House Rules**

The Board of Directors may adopt rules and regulations (commonly called "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. Changes to House Rules do not need to be recorded to be effective.

The House Rules for this project:

|  |                                     |  |
|--|-------------------------------------|--|
| Are Proposed                                 | <input checked="" type="checkbox"/> |  |
| Have Been Adopted and Date of Adoption       | <input type="checkbox"/>            |  |
| Developer does not plan to adopt House Rules | <input type="checkbox"/>            |  |

**3.5 Changes to the Condominium Documents**

Changes to Condominium Documents: Changes to the Declaration, Bylaws and Condominium Map are effective only if they are duly adopted and recorded. Where permitted, the minimum percentages of the common interest that must vote for or give written consent to changes to the Declaration, Bylaws and Condominium Map are set forth below. The percentages for any individual condominium project may be more than the minimum set by law if the Declaration or Bylaws for the project so provide.

| Document    | Minimum Set by Law | This Condominium |
|-------------|--------------------|------------------|
| Declaration | 67%                | 67%              |
| Bylaws      | 67%                | 67%              |

**3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents**

|                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/>            | No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).  |
| <input checked="" type="checkbox"/> | Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House Rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows:<br>See Exhibit "J" |

## 4. CONDOMINIUM MANAGEMENT

### 4.1 Management of the Common Elements

|  |  |
|--|--|
| <u>Management of the Common Elements:</u> The Association of Unit 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. |  |
| The initial Condominium Managing Agent for this project is (check one):  |  |
| <input type="checkbox"/>   | Not affiliated with the Developer              |
| <input type="checkbox"/>   | None (self-managed by the Association)         |
| <input type="checkbox"/>   | The Developer or an affiliate of the Developer |
| <input checked="" type="checkbox"/>  | Other (explain) See page 18d, Sec. 6.12        |

### 4.2 Estimate of the Initial Maintenance Fees

|  |
|--|
| <u>Estimate of the Initial Maintenance Fees:</u> The Association will make assessments against your unit 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 unit and the unit 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 "K" contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.  |

### 4.3 Utility Charges to be Included in the Maintenance Fee

|  |                                     |
|--|-------------------------------------|
| If checked, the following utilities are included in the maintenance fee: |                                     |
| <input checked="" type="checkbox"/>                                      | Electricity for the common elements |
| <input checked="" type="checkbox"/>                                      | Gas for the common elements         |
| <input checked="" type="checkbox"/>                                      | Water                               |
| <input checked="" type="checkbox"/>                                      | Sewer                               |
| <input checked="" type="checkbox"/>                                      | TV Cable                            |
| <input checked="" type="checkbox"/>                                      | Other (specify) Refuse              |

### 4.4 Utilities to be Separately Billed to Unit Owner

|  |                               |
|--|-------------------------------|
| If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee: |                               |
| <input checked="" type="checkbox"/>  | Electricity for the Unit only |
| <input type="checkbox"/>   | Gas for the Unit only         |
| <input type="checkbox"/>   | Water                         |
| <input type="checkbox"/>   | Sewer                         |
| <input type="checkbox"/>   | TV Cable                      |
| <input type="checkbox"/>   | Other (specify)               |

## 5. SALES DOCUMENTS

### 5.1 Sales Documents Filed with the Real Estate Commission

|                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Specimen Sales Contract<br>Exhibit "L" contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.                   |
| <input checked="" type="checkbox"/> | Escrow Agreement dated: September 12, 2006<br>Name of Escrow Company: Title Guaranty Escrow Services, Inc.<br>Exhibit "M" contains a summary of the pertinent provisions of the escrow agreement. |
| <input type="checkbox"/>            | Other:  |

### 5.2 Sales to Owner-Occupants

If this project contains three or more residential units, the Developer shall designate at least fifty percent (50%) of the units for sale to Owner-Occupants.

|                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.  |
| <input type="checkbox"/>            | Developer has designated the units for sale to Owner-Occupants in this report.<br>See Exhibit ____. |
| <input checked="" type="checkbox"/> | Developer has or will designate the units for sale to Owner-Occupants by publication.               |

### 5.3 Blanket Liens

Blanket Liens: A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project or more than one unit that secures some type of monetary debt (such as a loan) or other obligation. Blanket liens (except for improvement district or utility assessments) must be released as to a unit before the developer conveys the unit to a purchaser. The purchaser's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the unit to the purchaser.

|                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/>            | There are <u>no blanket liens</u> affecting title to the individual units.    |
| <input checked="" type="checkbox"/> | There are <u>blanket liens</u> that may affect title to the individual units. |

| Type of Lien | Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance |
|--------------|--|
| Mortgage     | Buyer's interest is subordinate to mortgagee's and is subject to   |
|              | termination. Buyer is entitled to return of any deposits paid, less  |
|              | escrow cancellation fees if the deposit has not yet been expended.   |

### 5.4 Construction Warranties

Construction Warranties: Warranties for individual units and the common elements, including the beginning and ending dates for each warranty (or the method of calculating them), are as set forth below:

Building and Other Improvements:

See page 18, Sec. 6.1 – 6.5

Appliances:

See page 18, Sec. 6.1 – 6.5

**5.5 Status of Construction, Date of Completion or Estimated Date of Completion**

|  |
|--|
| <p>Status of Construction:<br/>The Project was originally completed in 1966. Developer is not obligated to undertake any renovations, repairs, or additions.</p>   |
| <p>Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.</p> |
| <p>Completion Deadline for any unit not yet constructed, as set forth in the sales contract:</p>   |
| <p>Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:</p>  |

**5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance**

The Developer is required to deposit all moneys paid by purchasers in trust under a written escrow agreement with a Hawaii licensed escrow depository. Escrow shall not disburse purchaser deposits to the Developer or on behalf of the Developer prior to closing, except if a sales contract is canceled or if Developer has met certain requirements, which are described below.

**5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance**

|                          |  |
|--------------------------|--|
| <input type="checkbox"/> | <p>The Developer hereby declares by checking the box to the left that it shall use its own funds to complete the construction of the condominium project by the date indicated in Section 5.5 of this report, and the Developer, pursuant to its own analysis and calculations, certifies that it has sufficient funds to complete the construction of the condominium project.</p> <p><i>If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.</i></p> |
|--------------------------|--|

**5.6.2 Purchaser Deposits Will Be Disbursed Before Closing**

|   |  |
|---|--|
| <p>Hawaii law provides that, if certain statutory requirements are met, purchaser deposits in escrow under a binding sales contract may be used before closing to pay for certain project costs. For this project, the Developer indicates that purchaser deposits may be used for the following purposes (check applicable box):</p> |  |
| <input type="checkbox"/>  | <p>For new construction: to pay for project construction costs described in the Developer's budget and approved by the Developer's lender or an otherwise qualified, financially disinterested person; or</p>          |
| <input type="checkbox"/>  | <p>For conversions: to pay for repairs necessary to cure violations of county zoning and building ordinances and codes, for architectural, engineering, finance and legal fees, and for other incidental expenses.</p> |

In connection with the use of purchaser deposits (check Box A or Box B):

|   |   |
|---|---|
| <p><b>Box A</b></p> <p><input type="checkbox"/></p> | <p>The Developer has submitted all information and documents required by law and the Commission prior to the disbursement of purchaser deposits before closing. This means that the Developer may use such deposits before closing. If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>If Box A is checked, you should read and carefully consider the following notice, which is required by law:</p> <p><b><u>Important Notice Regarding Your Deposits: Deposits that you make under your sales contract for the purchase of the unit may be disbursed before closing of your purchase to pay for project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the project. While the developer has submitted satisfactory evidence that the project should be completed, it is possible that the project may not be completed. If your deposits are disbursed to pay project costs and the project is not completed, there is a risk that your deposits will not be refunded to you. You should carefully consider this risk in deciding whether to proceed with your purchase.</u></b></p>   |
| <p><b>Box B</b></p> <p><input type="checkbox"/></p> | <p>The Developer has <u>not</u> submitted all information and documents required by law and the Commission, and, until all such information and documents are submitted, thus, the Developer cannot use purchaser deposits.</p> <p>If the Developer later submits all information and documents required by law and the Commission for the use of purchaser deposits, then the Developer must provide an amendment to this report or an amended developer's public report to each purchaser who has signed a sales contract. At such time, the <b><u>Important Notice Regarding Your Deposits</u></b> set forth immediately above will apply to all purchasers and will be restated in the amendment to this report or an amended developer's public report. When an effective date for such an amendment or an amended developer's public report is issued, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (This, however, does not affect your right to rescind for material changes or any other right you may have to rescind or cancel the sales contract, as described in Section 5.8 below.) If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>You should understand that, although the <b><u>Important Notice Regarding Your Deposits</u></b> set forth above does not currently apply to you, it might apply to you in the future, and, therefore, you should read and carefully consider it now to ensure that you understand the risk involved in deciding whether to proceed with your purchase.</p> |

**Material House Bond.** If the Developer has submitted to the Commission a completion or performance bond issued by a material house instead of a surety as part of the information provided prior to the use of purchaser deposits prior to closing or conveyance of a unit, the Developer shall disclose the same below and disclose the impact of any restrictions on the Developer's use of purchaser deposits.

## 5.7 Rights Under the Sales Contract

Before signing the sales contract, prospective purchasers should carefully review all documents relating to the project. These include but are not limited to the documents listed below. Items 2, 3 and 4 are made a part of this public report, as well as Item 5, if any, and are being delivered to you with this report.

|    |  |
|----|--|
| 1. | <b>Developer's Public Report</b>   |
| 2. | <b>Declaration of Condominium Property Regime (and any amendments)</b>   |
| 3. | <b>Bylaws of the Association of Unit Owners (and any amendments)</b>   |
| 4. | <b>Condominium Map (and any amendments)</b>  |
| 5. | House Rules, if any  |
| 6. | Escrow Agreement   |
| 7. | Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted. |
| 8. | 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 514B, HRS) and the Administrative Rules (Chapter 107, HAR), 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 rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

## 5.8 Purchaser's Right to Cancel or Rescind a Sales Contract

A purchaser's right to cancel a sales contract or to rescind a sales contract may arise under varying circumstances. In the sections below, some circumstances that will give rise to a purchaser's right to cancel or rescind are described, together with what a purchaser must do if the purchaser wishes to exercise any of the rights.

### 5.8.1 When a Sales Contract becomes Binding and Purchaser's 30-Day Right to Cancel a Sales Contract

A sales contract signed by a purchaser and the developer will not become binding on a purchaser or the Developer until the following events have taken place:

(1) The purchaser has signed the sales contract.  
(2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.

(3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.

(4) The purchaser does at least one of the following:

(a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

(b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or

(c) Closes the purchase of the unit before the 30-day cancellation period expires.

The purchaser or the Developer may cancel the sales contract at any time during the 30-day cancellation period, and the sales contract will be canceled and the purchaser's deposits returned to the purchaser, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

### **5.8.2 Right to Cancel a Sales Contract if Completion Deadline Is Missed**

In addition to the purchaser's 30-day cancellation right described in Section 5.8.1 above, when a sales contract is signed before completion of construction of a project, the purchaser will have the right to cancel if the unit is not completed by certain deadlines. In conversion projects, there must be a deadline for completion of any required repairs. Every sales contract shall contain an agreement of the Developer that the completion of construction shall occur on or before the completion deadline, and that completion deadline is set forth in this report in Section 5.5. The sales contract shall provide that the purchaser may cancel the sales contract at any time after the specified completion deadline, if completion of construction does not occur on or before the completion deadline, as the same may have been extended. Upon a cancellation, the purchaser's deposits shall be refunded, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.00.

### **5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change**

If a "material change" in a project occurs after a purchaser has signed a sales contract that has become binding, the purchaser will have a 30-day right to rescind after notification and description of the material change. A material change is defined in the Condominium Property Act to be any change that "directly, substantially and adversely affects the use or value of (1) a purchaser's unit or appurtenant limited common elements; or (2) those amenities of the project available for the purchaser's use."

The purchaser will be informed of the material change by the developer on a form prescribed by the Commission containing a description of the material change.

After notice of the material change, the purchaser may waive the right to rescind by:

- (1) Checking the waiver box on the rescission form; or
- (2) Letting the 30-day rescission period expire, without taking any action to rescind; or
- (3) Closing the purchase of the unit before the 30-day rescission period expires.

The rescission form must be signed by all purchasers of the affected unit and delivered to the developer no later than midnight of the 30<sup>th</sup> calendar day after the purchasers received the rescission form from the developer. Purchasers who validly exercise the right of rescission shall be entitled to a prompt and full refund of any moneys paid.

A rescission right shall not apply in the event of any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the project's Declaration.

These provisions shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for the sale of a unit or any applicable common law remedies.

## **6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT**

6.1 Developer Makes No Warranties or Promises. PURCHASER ACKNOWLEDGES THAT DEVELOPER IS NOT THE ORIGINAL DEVELOPER OF THE PROJECT AND WAS NOT INVOLVED IN (AND IS NOT RESPONSIBLE FOR) THE ORIGINAL PLANNING OR CONSTRUCTION OF THE PROJECT. PURCHASER FURTHER ACKNOWLEDGES THAT THE PROJECT WAS SUBSTANTIALLY COMPLETED IN THE 1960s AND HAS BEEN USED OVER THE YEARS PRIMARILY FOR HOTEL PURPOSES. PURCHASER UNDERSTANDS AND AGREES THAT EACH UNIT IS BEING SOLD "AS IS, WHERE IS" WITH ALL FAULTS AND THAT DEVELOPER DISCLAIMS AND MAKES NO WARRANTIES OR PROMISES OF ANY KIND, EXPRESS OR IMPLIED, ABOUT THE UNIT, THE LAND UNDERLYING THE PROJECT (THE "LAND") OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT), OR ABOUT ANY FURNISHINGS, FIXTURES, APPLIANCES OR OTHER CONSUMER PRODUCTS, MECHANICAL SYSTEMS, PLUMBING SYSTEMS, ELECTRICAL SYSTEMS, COOLING OR HEATING SYSTEMS OR ANYTHING ELSE INSTALLED, ATTACHED, AFFIXED OR OTHERWISE CONTAINED IN THE UNIT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT), INCLUDING ANY WARRANTIES OR PROMISES OF "HABITABILITY", "MERCHANTABILITY", "WORKMANSHIP" OR "FITNESS FOR A PARTICULAR USE OR PURPOSE".

WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, DEVELOPER DISCLAIMS AND MAKES NO WARRANTIES OR PROMISES: (A) THAT THE PROJECT OR ANY IMPROVEMENTS IN THE UNIT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS) WILL BE FREE FROM CRACKS IN, OR OTHER DAMAGE TO, THE CONCRETE OR OTHER BUILDING MATERIALS; (B) REGARDING THE VALUE, QUALITY, GRADE OR USEFUL LIFE OF THE UNIT, THE PROJECT OR ANYTHING INSTALLED, ATTACHED, AFFIXED OR OTHERWISE CONTAINED IN THE UNIT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT); (C) REGARDING THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL HISTORY OR CONDITION OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, ANY DEFERRED MAINTENANCE AT THE PROJECT; OR (D) REGARDING THE SUITABILITY, CONFORMANCE, COMPLIANCE OR LACK OF COMPLIANCE OF THE PROJECT WITH ANY STATE, FEDERAL, COUNTY OR LOCAL LAW, CODE, ORDINANCE, ORDER, PERMIT, ADMINISTRATIVE REQUIREMENT, OR REGULATION, INCLUDING, WITHOUT LIMITATION, THOSE RELATED TO THE CONSOLIDATION AND SUBDIVISION OF LAND, THE OPERATION AND USE OF THE PROJECT AND ACCESSIBILITY OF THE PROJECT BY PERSONS WITH DISABILITIES. IN OTHER WORDS, DEVELOPER MAKES NO WARRANTIES OR PROMISES AT ALL.

PURCHASER FOR ITSELF AND ITS SUCCESSORS, HEIRS AND ASSIGNS, RELEASES DEVELOPER AND ITS AFFILIATES, AND EACH OF THEM AND THEIR RESPECTIVE PAST, PRESENT AND FUTURE MEMBERS, MANAGERS, DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, PROPERTY MANAGERS, AGENTS, ATTORNEYS, VENDORS, CONSULTANTS, CONTRACTORS AND EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (HEREAFTER THE "RELEASED PARTIES") FROM (AND WAIVES ANY CLAIM, ACTION OR LIABILITY WHICH ARISES FROM OR RELATES TO) ANY LATENT OR PATENT DEFECT IN ANY PART OF THE PROJECT OR THE UNIT, KNOWN OR UNKNOWN, WHICH EXISTS NOW OR IN THE FUTURE, OR WHICH ARISES FROM OR RELATES TO ANY LACK OF COMPLIANCE OF THE PROJECT WITH ANY STATE, FEDERAL, COUNTY OR LOCAL LAW, CODE, ORDINANCE, ORDER, PERMIT, ADMINISTRATIVE REQUIREMENT, OR REGULATION, THAT PURCHASER MAY HAVE AGAINST DEVELOPER UNDER ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION NOW EXISTING OR HEREAFTER ENACTED OR PROMULGATED, INCLUDING, WITHOUT LIMITATION, THOSE RELATED TO ASBESTOS, ASBESTOS-CONTAINING MATERIALS, LEAD-BASED OR LEAD-CONTAINING PAINT, HAZARDOUS MATERIALS AND ENVIRONMENTAL CONDITIONS OR MATTERS (INCLUDING THE PRESENCE OF MOLD OR MILDEW) IN, ON, UNDER, ABOUT OR MIGRATING FROM OR ONTO OR INTO THE PROJECT, OR BY VIRTUE OF ANY COMMON LAW RIGHT RELATING TO ASBESTOS, ASBESTOS-CONTAINING MATERIALS, LEAD-BASED OR LEAD-CONTAINING PAINT, HAZARDOUS MATERIAL AND ENVIRONMENTAL CONDITIONS OR MATTERS (INCLUDING THE PRESENCE OF MOLD OR MILDEW) IN, ON, UNDER ABOUT OR MIGRATING FROM OR ONTO OR INTO THE PROJECT. DEVELOPER AND PURCHASER AGREE THAT THIS RELEASE FROM LIABILITY HAS BEEN SPECIFICALLY NEGOTIATED BETWEEN DEVELOPER AND PURCHASER.

PURCHASER ACKNOWLEDGES AND AGREES THAT DEVELOPER'S DISCLAIMER OF WARRANTIES AND REPRESENTATIONS CONTAINED IN THIS SECTION 6.1 IS AN ESSENTIAL ELEMENT IN DEVELOPER'S DETERMINATION OF THE PURCHASE PRICE FOR THE UNIT BEING SOLD TO PURCHASER. THIS MEANS THAT THE UNIT WOULD NOT HAVE BEEN SOLD TO PURCHASER FOR THE AMOUNT OF THE PURCHASE PRICE STATED IN THE PURCHASE AGREEMENT WITHOUT DEVELOPER'S DISCLAIMER OF WARRANTIES AND REPRESENTATIONS.

6.2 Purchaser's Inspection and Acceptance of the Unit. On a date specified by Developer, Purchaser (or Purchaser's agent or representative) may inspect Purchaser's Unit. Such inspection may include evaluation and testing by licensed professionals with respect to the physical and environmental conditions in the Unit and the Project, provided such inspection does not cause unreasonable interference with the use and enjoyment of the Project by the occupants or cause any property damage. Purchaser gives up all rights to inspect if Purchaser (or Purchaser's agent or representative) does not inspect Purchaser's Unit the date and at the time set by Purchaser and Developer.

An inspection sheet will be provided at the inspection on which Purchaser may list any defects or damages to the Unit. Developer shall cooperate with, and assist Purchaser in having listed defects or damages corrected or repaired. Purchaser agrees to close the sale of the Unit on time and accept possession of the Unit even if there are defects or damages to the Unit or anything in it, as long as the Unit is not rendered uninhabitable thereby. Purchaser agrees that inspection of the Project, the Land or the Unit (including its furnishings, fixtures or appliances) is not required for closing to take place.

Purchaser shall have ten (10) days from Developer's Execution Date of the Purchase Agreement to perform or engage a professional consultant to inspect the common elements of the Project at Purchaser's option and expense.

Purchaser promises to protect Developer from any loss or damage, including interest and attorneys' fees and costs, resulting from Purchaser's failure to close the sale of the Unit or to accept possession of the Unit as required above. If Purchaser refuses to close the sale of the Unit or to accept the Unit as required by the Purchase Agreement, Purchaser will be in default under the Purchase Agreement and Developer may, in Developer's sole discretion, (a) cancel the Purchase Agreement and refund the Purchaser's deposit, or (b) charge a late fee of one percent (1%) per month on the total Purchase Price, or (c) exercise any of Developer's rights described in Section 15 of the Purchase Agreement.

6.3 Developer Makes No Promises or Warranty About the Condominium Map. The Condominium Map for the Project which is recorded in the Bureau of Conveyances of the State of Hawaii is intended to show only the layout, location, unit numbers and approximate dimensions of the units and the elevations of the Building. PURCHASER AGREES THAT NEITHER THE CONDOMINIUM MAP NOR THE BUILDING PLANS AND SPECIFICATIONS FOR THE PROJECT ARE INTENDED TO CONSTITUTE ANY WARRANTIES OR PROMISES BY DEVELOPER.

6.4 Developer Makes No Promises or Warranty About the Amount of Monthly Maintenance Fees. Purchaser has examined and approved the estimate of monthly maintenance fees and assessments for the Project prepared by Armstrong Consulting, Inc. and Developer and shown in Exhibit K attached hereto. Purchaser is aware that such amounts are only estimates and may change for reasons beyond the control of Developer, and Purchaser hereby specifically accepts and approves any changes in such estimate made by Developer or the Managing Agent. PURCHASER AGREES THAT SUCH ESTIMATES ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY WARRANTY OR PROMISE BY DEVELOPER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR PROMISE AS TO THE ACCURACY OF SUCH ESTIMATES.

6.5 Developer makes No Promises or Warranty About Third-Party Reports. Developer makes no warranty or representation whatsoever that Developer has provided all studies, reports, tests or other written investigations that may pertain to the condition of the Units and the other areas of the Building, Land or the Project. To the extent that Developer may have hired or commissioned any study, test or other investigation of the condition, useful life, legal compliance, or any other matter relating to the Units, the Land, the Project, or any furnishings, fixtures, appliances or other consumer products or anything else installed, attached, affixed or otherwise contained in the Units, the Land or the Project, and to the extent Developer may make the results of any such study, test or investigation available to Purchaser in connection with the offer or sale of the Project, Developer disclaims and makes no warranty or promise regarding the accuracy, reliability or value of any statement or opinion expressed by such third-party. PURCHASER AGREES THAT PURCHASER'S USE OR CONSIDERATION OF ANY SUCH INFORMATION IN CONNECTION WITH THE OFFER OR SALE OF THE UNIT SHALL BE AT PURCHASER'S SOLE RISK.

6.6 Developer Makes No Promises About Rentals or Other Economic Benefits. PURCHASER AGREES THAT NEITHER DEVELOPER NOR ANY SALESPERSON, OR OTHER PERSON AFFILIATED WITH OR IN ANY WAY RELATED TO DEVELOPER HAS TALKED TO PURCHASER AT ALL ABOUT ANY RENTAL INCOME OR RENTAL, MANAGEMENT OR SALES SERVICES FOR PURCHASER'S UNIT. IF PURCHASER WANTS TO RENT OR SELL THE UNIT, HOW PURCHASER DOES IT WILL BE UP TO PURCHASER. PURCHASER ALSO AGREES THAT NEITHER DEVELOPER NOR ANY SALESPERSON OR OTHER PERSON AFFILIATED WITH OR IN ANY WAY RELATED TO DEVELOPER HAS TALKED TO PURCHASER AT ALL ABOUT INCOME FROM THE UNIT OR ANY OTHER ECONOMIC BENEFIT TO BE DERIVED FROM THE PURCHASE OR OWNERSHIP OF THE UNIT OR ABOUT THE TAX EFFECTS OF BUYING THE UNIT. PURCHASER IS ADVISED TO CONTACT HIS OR HER OWN ADVISERS ON ALL SUCH MATTERS.

6.7 Condition of Project. PURCHASERS ARE AGAIN ADVISED THAT THE PROJECT WAS ORIGINALLY CONSTRUCTED IN THE 1960s, AND PURCHASERS SHOULD NOT EXPECT THAT THE UNITS BEING OFFERED FOR SALE NOR ANY COMPONENTS OF THE PROJECT WILL BE LIKE NEW. PURCHASERS WILL, THEREFORE, BE ACQUIRING UNITS AND APPURTENANT LIMITED COMMON ELEMENTS AND UNDIVIDED INTERESTS IN THE COMMON ELEMENTS OF THE PROJECT IN "AS IS" CONDITION, WITH ALL FAULTS. PURCHASERS, AS THE OWNERS OF UNITS IN THE PROJECT AND COMPRISING THE ASSOCIATION OF UNIT OWNERS, WILL BE RESPONSIBLE FOR FUNDING THE COSTS TO REPAIR, MAINTAIN AND REPLACE ALL COMPONENTS OF THE PROJECT, THROUGH THE GENERAL OPERATING BUDGET OR BY SPECIAL ASSESSMENT MADE TO ALL OWNERS.

6.8 Hazardous Materials. Developer neither prepared nor commissioned a Phase 1 Environmental Site Assessment and makes no representations or warranties whatsoever. Developer has made no independent investigation as to asbestos or other hazardous substances in the Units or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of, hazardous materials laws. Purchaser acknowledges that in light of the age of the Project, there may be asbestos and other hazardous substances in the Units, or in, under or around the Project. Because of the possible presence of such substances, Purchaser should have the Unit inspected to determine the extent (if any) of such contamination and any necessary remedial action. Developer will not correct any defects in the Units or in the Project or anything installed or contained therein and Purchaser expressly releases Developer from any liability to Purchaser if any hazardous materials are discovered. Purchaser shall have ten (10) days from the date of Developer's Execution Date of the Purchase Agreement to perform a risk assessment or inspection, at Purchaser's option and expense, for the presence of hazardous materials in the Unit or Project.

6.9 Lead Warning Statement. Pursuant to federal law, 42, U.S.C 4852(d), the Residential Lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Developer of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the Developer's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase." Purchaser shall have ten (10) days from Developer's Execution Date of the Purchase Agreement to perform a risk assessment or inspection, at Purchaser's option and expense, for the presence of lead-based paint and/or lead-based hazards in the Unit.

6.10 Nuisance and Natural Occurrence Disclosures. The following is a partial list of potential items which Unit owners or occupants may find objectionable:

(a) Airflow and Wind. Air flow in, around and through the Building, the Project, and the Unit resulting in smoke (from tobacco or other smoking substances), barbeque odors, other cooking odors, perfumes, and other odors being transmitted to the Unit or the Project and wind or wind-related noises or nuisances that may result therefrom.

(b) *Building Operations.* Noises, odors, chemical odors or fumes from Building operations, including janitorial, elevator and mechanical equipment operations, and landscape maintenance, repair and replacement activity.

(c) *Neighbors.* Neighbors, including adjacent Unit owners, their guests and invitees, whether below, above or on the side of the Unit and their respective behaviors and idiosyncrasies, whether occurring in a Unit or the common areas of the Project.

(d) *Adjacent Properties.* Nuisances arising from adjacent properties and their respective operational issues, such as trash pickup, deliveries, guests, tenants, clients and invitees, and any construction work they may perform from time to time.

(e) *Pedestrians.* Nuisances arising from pedestrian traffic.

(f) *Traffic.* Nuisances arising from traffic, including dust, sounds (alarms, engines, screeching tires, etc.), and exhaust fumes.

(g) *Natural Occurrences.* Earthquakes, tsunamis, volcanic ash or haze, animals, insects, pestilence, drought, and other natural occurrences.

(h) *Condominium Living.* The Building is multi-storied. As such, there are other Units located adjacent to, above and/or below the Unit. There is some possibility of sound transmission, smells, smoke, and other possible nuisances between Units.

(i) *Hotel/Condominium Resort Operation.* The Project is currently operated as a hotel, and may continue to be operated as a hotel and/or condominium resort project even after Developer starts selling the Units. Accordingly, Purchaser acknowledges that different groups or individuals will be using and living in the units for relatively short periods of time, and this may result in noise and other possible nuisances.

This is not a complete list of all potential objectionable matters, and Purchaser acknowledges there may be others. Purchaser releases and indemnifies Developer, its agents, consultants, contractors and employees from any and all liability or claims made by Purchaser, any successor or assigns of Purchaser, or any tenant or guest of Purchaser, arising from all such matters, whether listed above or otherwise.

EACH PURCHASER AGREES TO ACCEPT EACH CONDITION, CIRCUMSTANCE AND RISK DESCRIBED ABOVE OR IN ANY OF THE REPORTS OR INFORMATION PROVIDED BY DEVELOPER, AND FURTHER AGREES THAT NEITHER DEVELOPER, NOR ANY OF THE "RELEASED PARTIES" DESCRIBED IN SECTION 6.1 ABOVE, SHALL BE RESPONSIBLE FOR CORRECTING ANY SUCH CONDITIONS.

6.11 Disclosure Regarding Selection of Real Estate Broker. As of the effective date of this Public Report, the Developer has not executed a listing agreement for the sale of the units in this condominium project with a duly licensed Hawaii real estate broker. Thus, the Developer cannot offer to sell or sell any units in this registered condominium project until: (1) the Developer executes a listing agreement for the sale of the units in the condominium project, (2) amends this Public Report to reflect the new information, and (3) delivers this Public Report and amendment to the prospective purchaser. The conditions for a binding sales contract are listed on pages 16-17, paragraph 5.8.1, in this Public Report.

6.12 Disclosure Regarding Selection of Condominium Management Agent. The Developer has not at the present time engaged a condominium management agent for the Project. Once a management agent has been selected, the Developer will submit to the Real Estate Commission a duly executed amendment to this public report identifying the designated management agent.

6.13 Sandwich Lease. Developer's fee interest in the Project is subject to that certain Lease dated June 14, 1960, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 3857, Page 465 (the "Sandwich Lease"), which said Sandwich Lease, through mesne assignments, was assigned to Robert Bassett McDougal and Maxine Philbrick McDougal, Trustees of the McDougal Family Charitable Remainder Unitrust dated March 17, 1999 (the "McDougal Family"), and which Sandwich Lease expires in 2035. The Sandwich Lease is subject to a sublease (the "Sublease"), which Sublease interest is owned by Developer. Thus, Developer owns the fee interest and the subleasehold interest in the Project.

Under the Sublease, Developer pays to the McDougal Family two (2) forms of rent. The first form of rent is referred to as "Basic Hotel Rent" relating to the Land upon which the Improvements are located. The Basic Hotel Rent is approximately \$3,000 per month and is subject solely to Consumer Price Index ("CPI") adjustments for the remaining term through 2035. Upon termination of the Sublease, the obligation to pay the Basic Hotel Rent terminates. The Basic Hotel Rent shall constitute a Common Expense, and each Unit Owner shall contribute towards the Basic Hotel Rent in accordance with the Common Interest appurtenant to their respective Unit.

The second form of rent is referred to as the "Basic Commercial Rent" and relates solely to the commercial premises located within the Project. The Basic Commercial Rent is approximately \$14,500 per month with annual CPI adjustments for the remaining term through 2035. The Basic Commercial Rent shall be the sole responsibility of the Owner or Owners of the Commercial Units and shall not constitute a Common Expense, and the Owner of a Residential Unit shall not be required to contribute towards the Basic Commercial Rent.

6.14 Residential Units. Each Residential Unit in the Project currently contains eight (8) guest rooms and eight (8) bathrooms. None of the Residential Units currently contain a kitchen. The Developer may, but is not obligated to, redesign and remodel one or more of the Residential Units and install a kitchen prior to selling such a Unit. Under the condominium documents, a purchaser of a Residential Unit may also redesign and remodel the Unit and install a kitchen in the Unit provided the owner complies with all requirements set forth therein. In addition to the requirements set forth in the condominium documents, such a purchaser must also comply with applicable building code requirements. Before purchasing a Unit, the purchaser should consult with the appropriate county agencies regarding all permits that are required for any planned remodeling of the Unit or otherwise required for purchaser's use of the property.

A purchaser who is considering purchasing a Residential Unit in the Project that has been redesigned and remodeled with a complete kitchen installed, or if purchaser himself plans to redesign and remodel the Unit and install a kitchen, the purchaser should be aware that the other Units in the Project may remain in their current configuration of eight (8) guest rooms and eight (8) bathrooms. This means that those Units may be used by different groups or individuals for relatively short periods of time.

Article XII.A of the Declaration provides that the installation of a second elevator ("Second Elevator") in the Project may be undertaken by the Association pursuant to an amendment of the Declaration and the Condominium Map by the affirmative vote or written consent of a majority of the Residential Owners. This Second Elevator shall constitute a Limited Common Element appurtenant to the Residential Units, and the cost and expense of the construction, installation, maintenance, and repair of the Second Elevator shall be charged to the Owners of the Residential Units in proportion to the Common Interest appurtenant to each of said Residential Units.

6.15 Hotel/Condominium Resort Operation. The Project is currently operated as a hotel. Article IV.H of the Declaration provides that that Developer and any Owners shall have the right to continue to operate the Project as a hotel and/or condominium resort and to conduct any and all activities associated with such an operation. Each and every party acquiring an interest in the Project hereby acknowledges that the operation of the Project as a hotel and/or condominium resort may result in noise and nuisances, and consents to such activities by the Developer, its successors and assigns, and any Owners, and further waives, releases and discharges any rights, claims or actions such party may acquire against the Developer, its successors and assigns, and any Owners as a result of any such activities relating to the operation of the Project as a hotel and/or condominium resort.

6.16 Fractionalized Interest Use. Certain units in the Project may be sold subject to a fractionalized interest program. A fractionalized interest program is similar to a timeshare program, except that the length of time an owner is allowed to use the unit during a particular period is greater, and fractionalized interest programs are not currently regulated by the State of Hawaii. However, at this time, Developer has not identified which Units, if any, will be subject to such a fractionalized interest program.

The creation and sale of fractionalized interests in a unit and the management and operation of fractionalized interests pursuant to a use agreement are not directly regulated by any government entity like some other uses, for example time share or transient vacation rentals. As such, private contract agreements and rights determine the outcome of any claims and disputes.

If you are considering purchasing a fractionalized interest, you are advised to carefully read the documents and materials provided to you by Developer, and to have them reviewed and explained to you by an attorney. The relationship among the fractional owners within the unit, as well as the relationship of those owners to the condominium project owners and the condominium association can be complicated. The actions of the other fractional owners in your unit may affect your own interests and right in the unit and you should carefully review the documents governing your fractionalized interest program regarding your rights and liabilities.

The following is a partial listing of some issues to consider and on which you should seek advise: (a) how are fractional owner disputes resolved? (b) how is the relationship to the condominium association governed (for example, who can vote on behalf of the unit? Who can attend meetings? Who can run for the board directors?); (c) is there a sub-association to govern the fractionalized unit? (d) what happens if a fractional co-owner defaults in a payment or causes damage to the unit or the project? (e) are there restrictions on you ability to sell, encumber, lease, or rent your interest? (f) who maintains and cleans the unit?

By no means are these the only issues related to fractionalized interest programs. Again, you should seek appropriate advise and counsel before you elect to purchase a fractionalized interest (if any).

If, on the other hand, you are considering purchasing a Unit in the Project, you should be aware that there may be units in the project (although Developer has not at this time identified such units) that may be subject to fractionalized ownership. This means that different groups or individuals may be using and living in one unit for relatively short periods of time. Unlike timeshare and transient vacation rental projects, which are regulated by government agencies, fractionalized interest programs are not currently regulated.

In issuing an effective date for this Developer's Public Report, the Commission does not approve or disapprove the sale of fractionalized interest units, nor does it represent the Commission's judgment of the value or merits of the units as fractionalized interests. Fractionalized interest programs are not regulated by the Commission.



EXHIBIT "A"

Unit Descriptions, Net Square Footages, Percentage of Common Interest

| <b>Unit Number</b> | <b>Floor</b> | <b>Unit Type</b> | <b>Bedrooms/<br/>Baths</b> | <b>Net Square<br/>Footage*</b> | <b>Common<br/>Interest**</b> | <b>No of Parking<br/>Stalls***</b> |
|--------------------|--------------|------------------|----------------------------|--------------------------------|------------------------------|------------------------------------|
| 100                | Ground       | Commercial       | N/A                        | 1,195                          | 4.099%                       | 1                                  |
| 200                | Mezzanine    | Commercial       | N/A                        | 2,679                          | 9.187%                       | 1                                  |
| 300                | Third        | Residential      | N/A                        | 2,535                          | 8.693%                       | 2                                  |
| 400                | Fourth       | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 500                | Fifth        | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 600                | Sixth        | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 700                | Seventh      | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 800                | Eight        | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 900                | Ninth        | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 1000               | Tenth        | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 1100               | Eleventh     | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| 1200               | Twelfth      | Residential      | N/A                        | 2,528                          | 8.669%                       | 2                                  |
| Total              |              |                  |                            |                                | 100.000%                     |                                    |

\* The approximate net square footage of each Unit as set forth above is measured from the exterior surface of the Unit perimeter and party walls and includes all of the non-load bearing interior walls, columns, chase spaces and partitions within its perimeter walls. The areas shown are approximate only, and the Developer makes no representations or warranties whatsoever as to the area of any particular Unit.

\*\* The Common Interest for each Unit was calculated by dividing a Unit's net living area (or net area) by the sum of the net living areas of all Units that have been made subject to the Declaration with minor adjustments to the Common Interest for Commercial Unit 100.

\*\*\* The parking stalls for the Project are covered stalls and located in the neighboring Waikiki Beach Tower condominium project. Parking Stall Nos. 23C, 24C, 25C, 32C, 33C, 44C, 45C, 63C, 64C, 98C, 99C, 100C, 101C, 119C, 120C, 121C, 147C, 148C, 149C, 155C, 157C, 178C, 179C, 190C and 191C in said Waikiki Beach Tower have been set aside for use by occupants of the Project, and said twenty-five (25) parking stalls are collectively referred to herein as the "Parking Facility". Each owner of a Commercial Unit shall have the right to use and occupy one (1) parking stall within the Parking Facility, and each owner of a Residential Unit shall have the right to use and occupy two (2) parking stalls within the Parking Facility. The right to use the parking stalls appurtenant to each Unit will be conveyed pursuant to a license agreement. Three parking stalls have been designated for guest parking.

END OF EXHIBIT "A"

EXHIBIT "B"

Parking Information

The parking stalls for the Project are located in the neighboring Waikiki Beach Tower condominium project. The Developer is the owner of that certain Office and Storage Apartment at the Waikiki Beach Tower, and thirty-five (35) parking stalls are appurtenant to said Office and Storage Apartment. Said Office and Storage Apartment is subject to that certain Office and Storage Apartment Lease dated June 20, 2006, by and between RKL Beachside, LLC, as Lessor, and ResortQuest Hawaii, LLC, as Lessee, which said Lease is recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-113828, and twenty-five (25) parking stalls have been set aside for use by the occupants of the Project. Each Owner of a Commercial Unit shall have the right to use and occupy one (1) parking stall, and each Owner of a Residential Unit shall have the right to use and occupy two (2) parking stalls. Three (3) parking stalls have been designated for guest parking.

Pursuant to that certain Parking Facility Agreement dated October 17, 2006, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-202309, and said Office and Storage Apartment Lease, a monthly valet service fee shall be paid to the Association of Apartment Owners of Waikiki Beach Tower in the sum of TWENTY AND NO/100 DOLLARS (\$20.00) for each of the thirty-five (35) parking stalls; and the monthly valet service fee for the twenty-five (25) parking stalls set aside for use by the occupants of the Project shall constitute a Common Expense. The valet service fee will be adjusted effective January 1, 2010, by an amount equal to the change in the Honolulu consumer price index during the period from January 1, 2005 through January 1, 2010. The special assessment shall then be adjusted by a similar calculation in five year increments thereafter.

At the time of the first conveyance of each Unit to a Unit Owner, the Developer, or its successor or assigns, shall issue to such Unit Owner a license for ninety-nine (99) years to use one (1) or two (2) parking stalls as more particularly described above. The license to use the parking stalls shall not be separated from the Unit to which said license appertains.

The Developer, or its successor or assigns, may convey said Office and Storage Unit to the Association or an alternative entity owned by all Unit Owner in accordance with their Common Interest, for the purpose of holding title to said Office and Storage Unit for the benefit of all Unit Owners; and such conveyance of said Office and Storage Unit shall not require the consent or joinder of any other Unit Owner or any other person.

The Developer shall have the reserved right, but not the obligation, to designate parking stalls appurtenant to Units owned by the Developer as additional guest parking stalls. The right to designate such additional guest parking stalls, and, to the extent necessary, to amend this Declaration to effect the same shall occur at any time or times prior to December 31, 2026, and Developer may, without being required to obtain the consent or joinder of any Owner, lien holder or other persons, execute, deliver and record any amendments to this Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

END OF EXHIBIT "B"

EXHIBIT "C"

Boundaries of Each Unit

The Units consist of spaces within the perimeter and party walls, windows, doors, floors and ceilings of each of the twelve (12) Units. The respective Units shall not be deemed to include: (a) the perimeter or party walls or the undecorated or unfinished interior surfaces thereof, (b) the floors and ceilings surrounding each Unit or the undecorated or unfinished surfaces thereof, (c) the perimeter doors, door frames, door handles, door lock set, windows and window frames and all hardware associated therewith, or the undecorated or unfinished interior surfaces thereof, (d) the interior load-bearing walls and columns, if any, or the undecorated or unfinished surfaces thereof, or (e) any pipes, shafts, ducts, pumps, conduits, wires or other utility or service lines which are utilized for or serve more than one Unit, the same being deemed Common Elements as hereinafter provided. Each Unit shall be deemed to include: (i) all of the walls and partitions which are not load-bearing within its perimeter or party walls, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Unit which are utilized for and serve only that Unit, (iii) the inner decorated or finished surfaces of all walls, floors and ceilings surrounding each Unit, (iv) the inner decorated or finished surfaces of any doors, door frames, windows or window frames, (v) the inner decorated or finished surfaces of the lanais, excluding, however, the lanai railings and lanai slabs, which are Common Elements, and (vi) all appliances and fixtures installed therein, including but not limited to, any air conditioning unit servicing the Unit, and replacements therefor.

END OF EXHIBIT "C"

## EXHIBIT "D"

### Permitted Alterations to Units

A. General Provisions. Except as otherwise expressly provided in the Declaration to the contrary, restoration or replacement of the Project or any portion thereof or construction of any additional improvement or structural alteration or addition to any improvement, different in any material respect from the Condominium Map of the Project, shall be undertaken by the Association or any Unit Owner only pursuant to an amendment of the Declaration, duly executed, and in accordance with complete plans and specifications therefor first approved in writing by the Board. Promptly upon completion of such restoration, replacement or construction, the Association or Owner, as the case shall be, shall duly record such amendment, together with a complete set of floor plans of the Project as so altered, certified as built by a licensed architect, engineer or surveyor.

B. Additions or Alterations Solely Within a Unit or Limited Common Element. Notwithstanding anything to the contrary contained herein, an Owner or Owners (if there be more than one Owner of a Unit) of a Unit shall have the right at any time and from time to time at such Owner's or Owners' sole cost and expense, upon the written approval of the Board but without the necessity of the consent or joinder or any other Unit Owner, to make any of the following alterations solely within the Unit or Limited Common Element which such Owner or Owners control: (i) to install, maintain, remove and rearrange partitions (including the party wall between two Units owned by the same Owner or Owners) and other structures from time to time within such Unit or Limited Common Element; (ii) to finish, alter or substitute any plumbing, electrical or other fixtures attached to the ceilings, floors and walls as shall be appropriate for the utilization of such Unit or Limited Common Element by such Owner or Owners or the tenants or lessees thereof, including, but not limited to, the installation of a complete kitchen in a Unit; (iii) to tile, finish, re-carpet, and do or cause to be done such work on the floors of any Unit or Limited Common Element; and (iv) to convert a Lodging Unit into a Dwelling Unit, as such terms are defined in the Declaration. The foregoing alterations shall constitute "nonmaterial additions and alterations" as such terms are defined in section 514B-140(c) of the Act and shall require only the written approval of the Board. Nothing contained in this paragraph shall authorize any work or alteration which would jeopardize the soundness or safety of any part of the Project, reduce the value thereof, materially adversely affect any other Unit or Limited Common Element, materially alter the uniform external appearance of the Project, materially affect or impair any easement or rights of any of the other Unit Owners or materially interfere with or deprive any non-consenting Owner or Owners of the use or enjoyment of any part of the Common Elements subject, however, to the exclusive use of the Limited Common Elements. Further, nothing in this paragraph shall prohibit the Board from effecting such changes within a Unit or Limited Common Element, or to require the same, in order that the Building and other improvements of the Project may continue to comply with applicable law, including any fire or building code requirements.

C. Unit Owners to Execute Amendment Documents in Certain Cases. In the event that any change or alteration of a Unit pursuant to and in compliance with Article XII, Section B of the Declaration shall alter the depiction of the particular Unit on the Condominium Map or the description thereof in the Declaration, then the Owner or Owners of such Unit shall amend the Declaration and/or the Condominium Map to set forth such approved change or alteration, which amendment(s) may be executed by the Owner or Owners of the affected Unit or Units and by no other party, and such shall become effective upon the recordation thereof in said Bureau of Conveyances. The provisions of Article XIII of the Declaration notwithstanding, such amendment shall not require the consent or joinder of the Owner of any other Unit or any other person or entity, other than any mortgagee of such Unit or Units which are changed or altered if the mortgagee requires such consent. Every Unit Owner and all holders of liens affecting any of the Units of the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such Unit, lien or other interest, consents to and agrees that he shall, if required by law or by any such Owner or Owners who shall have changed or altered a Unit as aforesaid, join in, consent to, execute, deliver and record all instruments and documents necessary or desirable to effect the amendment of the Declaration and/or the Condominium Map; and appoints such Owner or Owners and their assigns his attorney-in-fact with full power of substitution to execute, deliver

and record such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such party.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL RESTRICTIONS ON ALTERATIONS TO APARTMENTS CONTAINED IN THE CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF RIGHTS AND OBLIGATIONS UNDER THE CONDOMINIUM DOCUMENTS, PURCHASER MUST REFER TO THE CONDOMINIUM DECLARATION, BY-LAWS AND HOUSE RULES TO DETERMINE THE PURCHASER'S ACTUAL RIGHTS AND OBLIGATIONS. IN ANY CONFLICT OR DIFFERENCE EXIST BETWEEN THIS SUMMARY AND THE CONDOMINIUM DOCUMENTS, THE CONDOMINIUM DOCUMENTS SHALL CONTROL.

END OF EXHIBIT "D"

## EXHIBIT "E"

### Common Elements and Limited Common Elements

A. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements," including, specifically but not limited to:

1. The Land in fee simple and any appurtenances thereto as more particularly described in Exhibit "A" attached to the Declaration;
2. The Building Structure including all perimeter or party walls and the undecorated or unfinished surfaces thereof, any load-bearing walls and columns, and the undecorated or unfinished surfaces thereof, all structural components such as foundations, concrete sidewalks and curbs, floor slabs, columns, girders, beams, supports, halls, corridors, elevators, exterior stairs and stairways, main walls, roofs and ceilings;
3. The basement level, except for those areas designated on the Condominium Map as limited common elements appurtenant to Commercial Unit 200;
4. The entry and lobby areas;
5. All perimeter doors, door frames, door handles, door lock set, windows, window frames, and all hardware associated therewith, and the undecorated or unfinished interior surfaces thereof; whether at the perimeter of a Building Structure or at the perimeter of a Unit;
6. All yards, grounds and landscaping, and all trash enclosures within the Project;
7. All access lanes, ramps, loading areas and walkways within the Project;
8. All amenities and Improvements depicted on the Condominium Map, to the extent such areas are not otherwise designated as Units on the Condominium Map;
9. All cables, conduits, ducts, trash chute, sewer lines, electrical equipment, door lock controller equipment, wiring, pipes, catch basins and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Unit for services such as power, light, water, gas, sewer, storm water, refuse, cable television and television signal distribution;
10. All unimproved areas, maintenance and equipment areas, storage areas and other similar areas which are not part of an Unit;
11. All other apparatus and installations existing for common use, such as tanks, pumps, motors, fans, air-conditioning units (not including the individual air conditioning units servicing the individual Units which are considered part of the Units) compressors, ducts, shafts, vents, water heating and distribution equipment, fire suppression equipment and other such installations and apparatus;
12. All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use;
13. All other areas designated on the Condominium Map as "Common Elements", or that are not designated as a Unit or as a Limited Common Element appurtenant to a Unit; and
14. All portions of the Project other than the Units, and any other interests in real estate for the benefit of the Unit Owners that are subject to this Declaration.

B. Limited Common Elements. Certain parts of the Common Elements, herein called the "Limited Common Elements," are hereby designated, set aside and reserved for the exclusive use of certain Units, and such Units shall have appurtenant exclusive easements for the use of such Limited Common Elements as set forth herein. The costs and expenses of every description pertaining to the Limited Common Elements, including, but not limited to, the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements, shall be charged to the Owner of the Unit to which the Limited Common Element shall be appurtenant, and if there is more than one Unit to which the Limited Common Element shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Units, unless a different method is adopted pursuant to Article IX of the Declaration. Limited Common Elements which are appurtenant to more than one Unit shall be managed and maintained by the Managing Agent on behalf of the Owners of such Units. In any event that a dispute shall arise between Owners of Units to which a particular Limited Common Element shall be appurtenant with respect to the management and/or maintenance thereof, such dispute shall be resolved by the Managing Agent, which shall be the sole arbiter with respect to such matters. All of the Owners of Commercial Units to which a Limited Common Element is appurtenant, may build upon and/or alter any such Limited Common Element, may change the use of such Limited Common Element, may lease any Limited Common Element area, and, in the event that any revenues are generated from such Limited Common Element or improvements thereon or uses thereof, the Owner or Owners of the Commercial Unit or Commercial Units to which such Limited Common Element is appurtenant shall be entitled to such revenues, and no other Owner shall have any right thereto. The Limited Common Elements include:

1. Commercial Unit 100. Commercial Unit 100 shall have as a Limited Common Element appurtenant thereto that certain outdoor area in front of Commercial Unit 100 as more particularly designated on the Condominium Map.

2. Commercial Unit 200. Commercial Unit 200 shall have as Limited Common Elements appurtenant thereto those certain areas located on the Basement level as more particularly designated on the Condominium Map.

3. Other Limited Common Elements. Any other Common Element of the Project which is rationally related to fewer than all the Units shall be deemed a Limited Common Element appurtenant to and for the exclusive use of such Unit to which it is rationally related.

END OF EXHIBIT "E"

EXHIBIT "F"

Encumbrances Against Title

Encumbrances against the title as contained in the Preliminary Report dated September 28, 2009, and issued by Title Guaranty of Hawaii, Inc., are as follows:

1. Real property taxes due and payable. For more information contact the City and County of Honolulu, Department of Finance, Real Property Tax Assessment.
2. Any and all improvement assessments that may be due and owing.
3. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
4. A 10-foot building setback line along the entire street frontage of Lot 86 along Kalakaua Avenue.
5. Lease dated June 14, 1960, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 3857, Page 465, entered into by and between GEORGE CHRONES, widower, "Lessor", and ROBERT BASSETT McDOUGAL and MAXINE PHILBRICK McDOUGAL, husband and wife, as Tenants by the Entirety, "Lessee".

Said Lease was amended by that certain unrecorded Modification of Lease dated January 29, 1963, and by that certain Modifications of Lease dated April 8, 1964, recorded in said Bureau of Conveyances in Liber 4739, Page 173, and dated September 15, 1967, recorded in said Bureau of Conveyances in Liber 5797, Page 215.

The lessee's interest was by mesne assignments assigned to ROBERT BASSETT McDOUGAL and MAXINE PHILBRICK McDOUGAL, Trustees of the McDougal Family Charitable Remainder Unitrust dated March 17, 1999, by that certain Assignment of Lease dated April 29, 1999, recorded in said Bureau of Conveyances as Document No. 99-075145.

6. The terms and provisions contained in that certain Agreement and Sublease dated March 1, 1966, by and between ROBERT BASSETT McDOUGAL and MAXINE PHILBRICK McDOUGAL, husband and wife, as Sublessor, and MARANCO MOTELS, INC., and TODRIC, INC., both California corporations, doing business as "MOTEL 6", as Sublessee, recorded in said Bureau of Conveyances in Liber 5276, Page 382, as amended by that certain instrument dated August 9, 1967, recorded in said Bureau of Conveyances in Liber 5797, Page 199, and further amended by that certain instrument September 1, 1988, but retroactive to April 1, 1988, recorded in said Bureau of Conveyances in Liber 22583, Page 516.

The sublessor's interest was by mesne assignments assigned to ROBERT BASSETT McDOUGAL and MAXINE PHILBRICK McDOUGAL, Trustees of the McDougal Family Charitable Remainder Unitrust dated March 17, 1999, by that certain Assignment of Lease dated April 29, 1999, recorded in said Bureau of Conveyances as Document No. 99-075145.

The Sublessee's interest was by mesne assignments assigned to RKL BEACHSIDE, LLC, a Hawaii limited liability company, by that certain instrument dated November 18, 2003, recorded in said Bureau of Conveyances as Document No. 2003-252515.

7. The terms and provisions contained in that certain unrecorded Parking Agreement dated March 1, 1966, entered into by and between ROBERT BASSETT McDOUGAL and MAXINE PHILBRICK McDOUGAL and MARANCO MOTELS, INC and TODRIC, INC.

8. The terms and provisions contained in that certain Declaration dated January 3, 1990, recorded in said Bureau of Conveyances as Document No. 90-000744.

9. Mortgage, Security Agreement and Fixture Filing dated February 3, 2006 in favor of Central Pacific Bank, a Hawaii corporation, recorded in said Bureau of Conveyances as Document No. 2006-027345.

10. The terms and provisions contained in that certain Assignment of Lessor's Interest in Leases dated February 3, 2006, by and between RKL Beachside, LLC, a Hawaii limited liability company, as Assignor, and Central Pacific Bank, a Hawaii corporation, as Assignee, recorded in said Bureau of Conveyances as Document No. 2006-027346.

11. Financing Statement in favor Central Pacific Bank, recorded February 10, 2006 in said Bureau of Conveyances as Document No. 2006-027347.

12. The terms and provisions contained in that certain Parking Facility Agreement dated October 17, 2006, by and between the Association of Apartment Owners of Waikiki Beach Tower, a Hawaii nonprofit corporation, and RKL Beachside, LLC, a Hawaii limited liability company, recorded in said Bureau of Conveyances as Document No. 2006-202309.

13. The terms and provisions contained in that certain Declaration of Covenants dated October 16, 2006, recorded in said Bureau of Conveyances as Document No. 2006-202310.

14. The terms and provisions contained in that certain Declaration of Restrictive Covenants (Special District) dated October 16, 2006, recorded in said Bureau of Conveyances as Document No. 2006-202311.

15. The terms and provisions contained in that certain Declaration of Condominium Property Regime dated November 30, 2006, recorded in said Bureau of Conveyances as Document No. 2007-001681.

Condominium Map No. 4359, and any amendments thereto.

16. The terms and provisions contained in those certain By-Laws of the Association of Unit Owners dated November 30, 2006, recorded in said Bureau of Conveyances as Document No. 2007-001682.

17. Encroachments or any other matters as shown on survey map prepared by Ryan M. Suzuki, Land Surveyor, with R.M. Towill Corporation, dated October 20, 2003.

18. Encroachments or any other matters which a survey prepared after October 20, 2003 would disclose.

19. Any unrecorded leases and matters arising from or affecting the same.

IN ADDITION, THE DEVELOPER ADVISES THAT THE FOLLOWING DOCUMENTS WERE SUBSEQUENTLY RECORDED:

20. Amendment of Declaration of Condominium Property Regime and Condominium Map dated \_\_\_\_\_, 2009, recorded in said Bureau of Conveyances as Document No. \_\_\_\_\_.

21. Amended and Restated Declaration of Condominium Property Regime dated \_\_\_\_\_, 2009, recorded in said Bureau of Conveyances as Document No. \_\_\_\_\_.

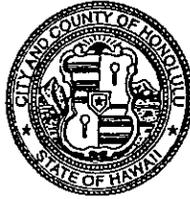
22. Amended and Restated By-Laws of the Association of Unit Owners of Royal Kai Lani dated \_\_\_\_\_, 2009, recorded in said Bureau of Conveyances as Document No. \_\_\_\_\_.

END OF EXHIBIT "F"

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4432 • FAX: (808) 527-6743  
DEPT. INTERNET: www.honoluluodpp.org • INTERNET: www.honolulu.gov

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANQUE  
DEPUTY DIRECTOR

2004/ELOG-2019 (AS)

August 10, 2005

Mr. Bradley R. Pulice  
Stanton Clay Chapman Crumpton & Iwamura  
Attorneys at Law  
Topa Financial Center, Bishop Street Tower  
700 Bishop Street, Suite 2100  
Honolulu, Hawaii 96813

Dear Mr. Pulice:

Subject: Condominium Conversion Project  
2452 Kalakaua Avenue  
Tax Map Key: 2-6-023: 004

This is in response to your letter dated August 30, 2004 requesting verification that the structure located on the above-mentioned property met all applicable code requirements at the time of construction.

Investigation revealed that a twelve (12) story hotel building with seventy two lodging units met code requirements when it was constructed in 1965 on this 5,000 square foot Resort Mixed Use zoned lot. Currently there are fifty two lodging units in use.

Investigation also revealed the following:

- 1) On April 21, 1966 building permit No. 24756 was issued to convert room No. 4 on the third floor to a laundry room.
- 2) On July 5, 1988 a Conditional Use permit (CUP) No. 88/CUP1-19 was approved with conditions for twenty off-site parking spaces on adjoining parcels 1,3 and 7. On October 22, 1990 a revision to this CUP was approved with conditions to add one more parking space for a total of twenty one off-site parking spaces.

**EXHIBIT " G "**

Mr. Bradley R. Pulice  
August 10, 2005  
Page 2

- 3) On May 5, 1988 minor permit 88/SMA-43 was approved for a roof parapet.
- 4) On December 19, 1989 minor permit 89/WSD-48 was approved with conditions for hotel renovations.
- 5) On February 10, 2005 a notice of violation No. 2005/NOV-02-087 was issued for 18 lodging units (room Nos. 4 & 5 on the 4th through the 12<sup>th</sup> floors) lacking required natural light and ventilation. The violation was corrected on June 15, 2005 by converting these units, along with room No. 5 on the third floor, to storage use only.

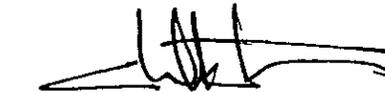
No other variances or other permits were granted to allow deviations from any applicable codes.

For your information, the Department of Planning and Permitting cannot determine all legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes.

Conversion to a condominium property regime (CPR) is not recognized by the City and County as an approved subdivision. CPR delineates ownership; it does not create a separate lot of record subdivision and zoning purposes.

If you have any questions regarding this matter, please contact Mr. Ivan Matsumoto of our Commercial and Multi-family Enforcement Branch at 527-6341.

Sincerely yours,



HENRY ENG, FAICP  
Director of Planning and Permitting

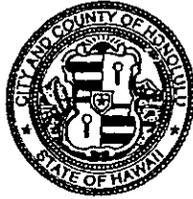
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document 389732

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANOUE  
DEPUTY DIRECTOR

2005/CUP-86(TC)

|                     |   |  |
|---------------------|---|--|
| <b>MINOR PERMIT</b> | : | <b>CONDITIONAL USE PERMIT (Minor)</b>                            |
| File Number         | : | 2005/CUP-86  |
| Project             | : | Royal Kai Lani – Off-Site Parking                                |
| Applicant           | : | RKL Beachside, LLC (Michael Richardson)                          |
| Location            | : | 2452 Kalakaua Avenue - Waikiki                                   |
| Tax Map Key         | : | 2-6-23: 4 (Principal Use); 1 (Access Site), and 7 (Parking Site) |
| Zoning              | : | Resort Mixed Use Precinct  |
| Date Received       | : | September 9, 2005  |
| Date Accepted       | : | September 23, 2005   |

The Conditional Use Permit (Minor) application for off-site parking is **APPROVED**, in accordance with the submitted plans (DPP date-stamped July 8, 2005 and September 9, 2005), subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall:
  - a. **Submit a draft Declaration of Covenants** (in lieu of the Parking License Agreement – see attached), for review and approval by the Director of Planning and Permitting; and
  - b. **File the approved covenant** with the Bureau of Conveyances and/or the Land Court of the State of Hawaii. Proof of such filing shall be in the form of a copy **certified** by the appropriate agency and shall be submitted to the Department of Planning and Permitting (Urban Design Branch).

**(NOTE: DO NOT RECORD THE DECLARATION OF COVENANTS PRIOR TO THE REVIEW AND APPROVAL OF THE DIRECTOR OF PLANNING AND PERMITTING.)**

2. This Conditional Use Permit (CUP) for off-site parking shall run with the land and the 12 off-site parking spaces shall remain available to the occupants of parcel 2-6-23:4 according

**EXHIBIT " H "**

to the approved covenants. The conditions of this CUP and the Declaration of Covenants shall not be modified without the expressed written consent of the Director.

3. The off-site parking layout shall conform to Sections 21-4.70, 21-4.70-1(d), 21-6.20, 21-6.30(d) and (e), and 21-6.40 through 21-6.80 of the Land Use Ordinance.
4. This application has only been reviewed and approved pursuant to the provisions of Section 21-5.480 of the LUO, and development shall comply with all other provisions of the LUO.
5. Approval of this CUP shall not be construed as approval of any building/sign permit application; such applications are reviewed separately and shall comply with applicable codes and regulations.
6. This approval may be revoked by the Director of Planning and Permitting when there is a breach of any of the conditions stated above; provided that, for good cause, the Director may amend the above conditions.

doc404065rev1

***THIS COPY, WHEN SIGNED BELOW, IS NOTIFICATION OF THE ACTION TAKEN.***

*Pat Segant*

SIGNATURE

*for* Director  
TITLE

November 2, 2005

DATE

This approval does not constitute approval of any other required permits, such as building or sign permits.



**KAI HAWAII**  
STRUCTURAL & FORENSIC ENGINEERS

Ken K. Hayashida, P.E.  
Thang T. Pham, P.E.  
Michael P. Hunnemann, P.E.

September 14, 2006

Donald J. Clifford  
Clifford Projects  
841 Bishop Street, Suite 300  
Honolulu, Hawaii 96813

Subject: Aston Waikiki Beachside Hotel-Condition Assessment  
Waikiki, Hawaii

We had the opportunity on June 14, June 29, October 5 and October 20, 2004 to review the conditions at the subject project in the course of our work for a renovation and elevation addition to the subject project, located on Kalakaua Avenue.

The existing building is a twelve-story hotel which consists of eight hotel rooms on each floor on a footprint of approximately 2,800 square feet. The building consists of cast in place concrete slabs supported on concrete beams, walls and columns. Lateral support appears to be provided by shear walls at a central elevator shaft, stairwells and boundary wall. The age of the building is unknown.

For this project, our scope of work consisted of the following items:

- **Visual field survey of building.** Our survey consisted of nondestructive visual observations of exposed building structural elements at the exterior of the structure from ground and floor level locations. In addition, the interior of the stairwells and two selected units were also visually observed. Hidden conditions such as those covered by floor, ceiling or wall panels and coverings were not reviewed during our visit. This survey did not include physical testing of building elements. Accordingly, our visual field survey should be considered cursory in nature by an informed reader of this letter.
- **Structural assessment of building.** The building was assessed based upon the visual field survey only. The assessment did not include any quantitative structural analysis of the structural system. Also, the original building's structural drawings and record documents were not available from the owner for review.

From our visits the following conditions were observed:

- Exposed concrete walls had several hairline cracks in the stairwell walls, exterior window sills and at the corner of the roof top doorway. There was one CMU wall crack at the exterior building corner which appeared to have been repaired.
- Exposed concrete slabs and beam had no significant cracks or distress, however spalling of concrete slab edges on the exterior lanais were common. This condition has been known to become a future maintenance and safety problem.

31 N. Pauahi Street \* 2<sup>nd</sup> Floor \* Honolulu \* Hawaii \* 96817  
Telephone: (808) 533-2210 \* Facsimile: (808) 533-2686 \* E-mail Address: mail@kaihawaii.com

**EXHIBIT " I "**

- ♦ The roof top mechanical equipment was support on structural steel members, all of which is in various stages of corrosion.

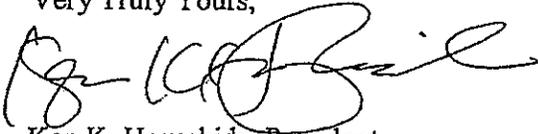
A majority of the concrete spalls at the railing post bases appear to be caused by corrosion of the post base or embedded reinforcing steel. The potential falling hazard makes it necessary for the concrete spalls to be repaired and maintained. The repair should include at a minimum proper preparation of the embedded steel elements and replacement with a suitable patching mortar. A more thorough investigation of these life safety elements are necessary in the event the project is not renovated this year as currently envisioned.

It appears that the main structural elements of the building are not showing signs of significant distress or deterioration. The building's lateral system will probably not meet current building code standards, however an upgrade is not required by the City & County of Honolulu Building Code since the lateral system is being strengthened by the proposed elevator core addition.

No representations are being expressed or implied as to the expected or useful life of the main structural elements of the building. The opinions and comments in this report are based on visual observations and the documentation provided only. This letter is intended for the informed reader, knowledgeable of real estate development, engineering and construction. Other third parties are advised not to rely upon this letter for making purchasing decisions or as a substitute for their own analysis and due diligence. Architectural, mechanical, electrical, or plumbing conditions are not included and no warranty expressed or implied as to the condition of the structure, is intended.

Should there be questions, please call.

Very Truly Yours,



Ken K. Hayashida, President  
KAI Hawaii Inc.

Consulting Engineers  
Adelaide Auckland Bangkok  
Brisbane Cairns Hawaii  
Melbourne Perth San Diego  
Singapore Sydney

Lincolne Scott Inc  
1132 Bishop Street Suite 1850  
Honolulu Hawaii 96813  
USA  
Telephone 1 808 536 1737  
Facsimile 1 808 537 5829  
honolulu@lincolnescott.com  
lincolnescott.com

Monday, September 25 2006

Don Clifford  
President  
Clifford Projects, Inc.  
810 Richards Street  
Honolulu HI 96813

**Lincolne Scott**

**Royal Kai Lani Renovation  
2452 Kalakaua Avenue, Honolulu**

Dear Don

In accordance with your request, we offer the following opinions regarding electrical systems for the subject project.

1. Visual observations were done in 2004 on limited and accessible electrical components of the project. Based on these limited observations, available drawings, and the use of building, the electrical system appeared usable and free from major electrical defects. The expected useful life is estimated to be between about 15 and 20 years.
2. With the planned renovations, a majority of the electrical infrastructure will remain with modifications made for new living unit feeders, new elevators, and incidental related work. These modifications have an expected useful life of about 25 to 30 years with the present infrastructure to be about 15 to 20 years.

Please call for any questions or comments.

Thank you.



Albino Prieto  
Engineer



**KAI HAWAII**  
STRUCTURAL & FORENSIC ENGINEERS

Ken K. Hayashida, P.E.  
Michael P. Hunnemann, P.E.

September 30, 2009

Donald J. Clifford  
Clifford Projects  
810 Richards Street, Suite 1000  
Honolulu, Hawaii 96813

Subject: Aston Waikiki Beachside Hotel-Condition Assessment Amendment  
Waikiki, Hawaii

The proposed structural renovation and alterations to the existing structure, including the addition of the new elevator, will not be done. Thus even if the building's lateral system may not meet current building code standards, an upgrade is not required by the City & County of Honolulu Building Code.

Should there be questions, please call.

Very Truly Yours,

Ken K. Hayashida, President  
KAI Hawaii Inc.

## EXHIBIT "J"

### Rights Reserved by Developer

Among other rights, Developer will have the following reserved rights with respect to the Project, which rights are more particularly set forth in the Declaration:

A. **RESERVED RIGHT TO GRANT EASEMENTS.** This right is set forth in Paragraph XIX of the Declaration. Developer will have, among other things, the right until December 31, 2026, to grant easements over the common elements of the Project.

B. **RESERVED RIGHT TO CONVERT LIMITED COMMON ELEMENTS TO UNITS.** This right is set forth in Paragraph XX of the Declaration. Developer shall have the right until December 31, 2026, without obtaining the approval of any party with an interest in the Project, including any other Owner and/or mortgagee, to convert a Limited Common Element appurtenant to such Unit or Units owned by Developer, or any portion thereof, into a separate Unit of the Project.

C. **RESERVED RIGHT TO SUBDIVIDE AND CONSOLIDATE UNITS.** This right is set forth in Paragraph XXI of the Declaration. Developer will have, among other things, the right until December 31, 2026, to change the floor plan of any Unit which it owns so long as the common interest appurtenant to the Unit does not change; subdivide any Unit which it owns at any time to create two (2) or more Units so long as the total common interest appurtenant to the newly-created Unit are equal to the common interest appurtenant to the original Unit; convert the status of certain portions of an existing Unit to common element status to facilitate the subdivision so long as the total common interest appurtenant to the newly-created Unit(s) equal the common interest appurtenant to the original Unit; consolidate two (2) or more Units which it owns and convert any area between Units to Unit status; and convert a Limited Common Element appurtenant to a Unit or Units owned by Developer, or any portion thereof, into a separate Unit of the Project.

D. **RESERVED RIGHT TO MODIFY PROJECT TO COMPLY WITH LAW.** This right is set forth in Paragraph XXII of the Declaration. Developer will have the right until December 31, 2026 to accomplish all modifications to Units and common elements in the Project to ensure full compliance by the Project, and the Association with laws that apply to the Project. However, this right does not create an obligation on Developer's part to effect such compliance.

E. **RESERVED RIGHT TO UTILIZE LIMITED COMMON ELEMENT AREAS.** This right is set forth in Paragraph XXIII of the Declaration. The Owner of a Commercial Unit shall have the reserved right, but shall have no obligation, to operate, lease and/or utilize all or any part of the Limited Common Elements of the Project, and which are appurtenant to such Unit, for any purpose permitted by law, including, without limitation, for purposes related to the sale of real estate, or providing services and amenities conducive to a first-class condominium. The Owners of Commercial Units may contract with various providers of goods and services, such as food and beverage operators, retail stores and other vendors, to provide goods and services at the Project, and may retain any compensation paid to the Owners in consideration of the Owners permitting any such vendor to utilize space at the Project.

F. **RESERVED RIGHT TO REDESIGNATE LIMITED COMMON ELEMENTS.** This right is set forth in Paragraph XXIV of the Declaration. Developer will have, among other things, the right until December 31, 2026, to change or amend the Declaration to redesignate all or a portion of certain limited common elements appurtenant to a Unit owned by Developer, as appurtenances to another Unit or Units owned by Developer.

G. **RESERVED RIGHT TO CONVEY UNITS AND LIMITED COMMON ELEMENTS TO ASSOCIATION.** This right is set forth in Paragraph XXV of the Declaration. Developer will have, among other things, the right until December 31, 2026, to convey to the Association Units owned by Developer and free of mortgage liens, to redesignate limited common elements appurtenant to Units owned by

Developer as limited common elements to Units owned by the Association, to recharacterize limited common elements appurtenant to Units owned by Developer as common elements of the Project and to change or amend the Declaration, By-Laws and Condominium Map to effect the same.

H. RESERVED RIGHT TO WITHDRAW UNITS. Pursuant to Paragraph XXVI of the Declaration, Developer shall have the reserved right, to and until December 31, 2026, to withdraw from the operation of the Declaration, any Units in the Project owned by Developer.

I. RESERVED RIGHT TO CONTINUE OPERATING THE PROJECT AS A HOTEL/CONDOMINIUM RESORT. Pursuant to Paragraph XXVII of the Declaration, the Developer shall have the reserved right to continue to operate the Project as a hotel and/or condominium resort and to conduct any and all activities associated with such an operation.

J. ASSIGNMENT OF RESERVED RIGHTS. Pursuant to Paragraph XXVI of the Declaration, the rights reserved by Developer are fully assignable.

I. CONSENT TO DEVELOPER'S RESERVED RIGHTS; APPOINTMENT OF DEVELOPER AND ASSOCIATION AS ATTORNEY-IN-FACT. Pursuant to Paragraph XXVII of the Declaration, every party acquiring an interest in the Project consents to Developer's exercise of its reserved rights and to the execution, delivery and recording of any documents to effect these rights. Every party agrees to execute, deliver and record documents and do what may be necessary or convenient to effect the same; and appoints Developer its attorney-in-fact to execute, deliver and record such documents and do such other things on his behalf.

K. RESERVED RIGHT TO DESIGNATE ADDITIONAL GUEST PARKING STALLS. This right is set forth in Paragraph XXXII of the Declaration. Until December 31, 2026, Developer will have the right, but not the obligation, to designate parking stalls appurtenant to Units owned by the Developer as additional guest parking stalls.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL THE RIGHTS RESERVED BY DEVELOPER UNDER THE CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER MUST REFER TO THE CONDOMINIUM DECLARATION AND BY-LAWS TO DETERMINE THE ACTUAL RIGHTS RESERVED BY DEVELOPER. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE DECLARATION OR THE BY-LAWS, THE DECLARATION OR BY-LAWS, AS APPLICABLE, SHALL CONTROL.

END OF EXHIBIT "J"

**Estimate of Initial Maintenance Fee Disbursements  
AOAO Royal Kai Lani**

|                                      | <u>Monthly Fee</u> | <u>Yearly Total</u> |
|--------------------------------------|--------------------|---------------------|
| <b><u>Salaries &amp; Wages</u></b>   |                    |                     |
| Security/Valet/Concierge             | \$11,900.00        | \$142,800.00        |
| <b>Total</b>                         | <b>\$11,900.00</b> | <b>\$142,800.00</b> |
| <b><u>Operating</u></b>              |                    |                     |
| Audit Fees                           | \$20.83            | \$249.96            |
| Board Expense                        | \$50.00            | \$600.00            |
| Legal Fees                           | \$100.00           | \$1,200.00          |
| Licenses & Taxes                     | \$150.00           | \$1,800.00          |
| Office Supplies                      | \$15.00            | \$180.00            |
| Postage & Freight                    | \$25.00            | \$300.00            |
| Telecommunications                   | \$200.00           | \$2,400.00          |
| McDougall Sandwich Interest Sublease | \$3,000.00         | \$36,000.00         |
| <b>Total</b>                         | <b>\$3,560.83</b>  | <b>\$42,729.96</b>  |
| <b><u>Maintenance</u></b>            |                    |                     |
| Building - Maintenance               | \$770.83           | \$9,249.96          |
| Elevator                             | \$1,000.00         | \$12,000.00         |
| Life Safety                          | \$221.67           | \$2,660.04          |
| Maintenance Supplies/Expenses        | \$200.00           | \$2,400.00          |
| Pest Control                         | \$350.00           | \$4,200.00          |
| Waste Removal                        | \$400.00           | \$4,800.00          |
| <b>Total</b>                         | <b>\$2,942.50</b>  | <b>\$35,310.00</b>  |
| <b><u>Utilities</u></b>              |                    |                     |
| Electricity                          | \$500.00           | \$6,000.00          |
| TV Signal                            | \$400.00           | \$4,800.00          |
| Gas                                  | \$300.00           | \$3,600.00          |
| Water/Sewer                          | \$800.00           | \$9,600.00          |
| <b>Total</b>                         | <b>\$2,000.00</b>  | <b>\$24,000.00</b>  |
| <b><u>Professional Services</u></b>  |                    |                     |
| Management Fee                       | \$500.00           | \$6,000.00          |
| <b>Total</b>                         | <b>\$500.00</b>    | <b>\$6,000.00</b>   |

**Estimate of Initial Maintenance Fee Disbursements  
AOAO Royal Kai Lani**

|                                      | Monthly Fee        | Yearly Total        |
|--------------------------------------|--------------------|---------------------|
| <b><u>Insurance</u></b>              |                    |                     |
| Property/Fire/Gen Liability/Fidelity | \$1,493.67         | \$17,924.04         |
| Umbrella Liability                   | \$212.08           | \$2,544.96          |
| D & O Liability                      | \$62.50            | \$750.00            |
| Flood                                | \$306.33           | \$3,675.96          |
| <b>Total</b>                         | <b>\$2,074.58</b>  | <b>\$24,894.96</b>  |
| <br>                                 |                    |                     |
| <b>Total Expenses</b>                | <b>\$22,977.91</b> | <b>\$275,734.92</b> |
| <br>                                 |                    |                     |
| 2006 Reserve Budget                  |                    | \$30,000.00         |
| Average monthly reserve contribution |                    | \$2,500.00          |
| Monthly maintenance fee              |                    | \$25,477.91         |
| Average monthly maintenance fee      |                    | \$2,123.16          |

On behalf of RKL Beachside, LLC (the "Developer"), I, Dale Armstrong, as agent for/and/or employed by Armstrong Consulting, Inc., an independent evaluator for the Developer, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principals.

  
\_\_\_\_\_  
Signature

4-25-06  
\_\_\_\_\_  
Date

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. The developer has conducted a preliminary reserve study for the Project and the budgeted expenditure amount includes an amount for reserves based on this estimate.

## AOAO Royal Kai Lani Maintenance Fee Allocations

| Apartment Number | Type        | Common Interest % | Monthly Maint. Fee | Annual Maint. Fee |
|------------------|-------------|-------------------|--------------------|-------------------|
| 100              | Commercial  | 4.099%            | \$1,044.34         | \$12,532.08       |
| 200              | Commercial  | 9.187%            | \$2,340.70         | \$28,088.40       |
| 300              | Residential | 8.693%            | \$2,214.80         | \$26,577.60       |
| 400              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 500              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 600              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 700              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 800              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 900              | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 1000             | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 1100             | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| 1200             | Residential | 8.669%            | \$2,208.68         | \$26,504.16       |
| Total            |             | 100.00%           | \$25,477.96        | \$305,732.52      |

**AOAO Royal Kal Lani  
General Operating Budget**

|                                     | JAN              | FEB              | MAR              | APR              | MAY              | JUN              | JUL              | AUG              | SEP              | OCT              | NOV              | DEC              | TOTAL             |
|-------------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|
| <b>REVENUE</b>                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |
| Maintenance Fee                     | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 22,977.91        | 275,794.92        |
| General Assessment                  | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Replacement Reserve Collected       | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 2,500.00         | 30,000.00         |
| Interest Income                     | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Late Fees                           | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Other Income                        | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| <b>Total Revenue</b>                | <b>25,477.91</b> | <b>305,794.92</b> |
| <b>SALARIES &amp; WAGES</b>         |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |
| Admin                               | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Housekeeping                        | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Maintenance                         | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Grounds                             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Security/Valet/Concierge (1)        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 11,900.00        | 142,800.00        |
| <b>Total Salaries &amp; Wages</b>   | <b>11,900.00</b> | <b>142,800.00</b> |
| Vacation Pay                        | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Holiday Sick & Other                | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Payroll Taxes & Benefits            | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| <b>Net Payroll &amp; Related</b>    | <b>0.00</b>       |
| <b>OPERATING</b>                    |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |
| Audit Fees                          | 250.00           | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 250.00            |
| Bad Debt Provision                  | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Board Expenses                      | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 50.00            | 600.00            |
| Dues & Publications                 | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| General Excise Tax                  | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Legal Fees                          | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 100.00           | 1,200.00          |
| Licenses & Taxes                    | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 150.00           | 1,800.00          |
| Office Supplies                     | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 15.00            | 180.00            |
| Equipment Lease                     | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Outside Contract Services           | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Other Professional Fees             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| Postage & Freight                   | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 25.00            | 300.00            |
| Telecommunications (2)              | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 200.00           | 2,400.00          |
| Internet Access                     | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| McDougal Sandwich Interest Sublease | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 3,000.00         | 36,000.00         |
| Other                               | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             | 0.00              |
| <b>Total Operating</b>              | <b>3,790.00</b>  | <b>3,640.00</b>  | <b>3,640.00</b>  | <b>3,540.00</b>  | <b>3,640.00</b>  | <b>42,730.00</b>  |

# AOAO Royal Kai Lani General Operating Budget

|                                      | JAN       | FEB       | MAR       | APR       | MAY       | JUN       | JUL       | AUG       | SEP       | OCT       | NOV       | DEC       | TOTAL      |
|--------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| <b>MAINTENANCE</b>                   | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 9,249.96   |
| Building - Maintenance (3)           | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| Building - Other                     | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 1,000.00  | 12,000.00  |
| Elevator (4)                         | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| FF&E Maintenance                     | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 221.67    | 2,660.04   |
| Grounds & Landscaping                | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| Life Safety (5)                      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| Locks & Keys                         | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 200.00    | 2,400.00   |
| Maint Suppliers/Expenses             | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| Other Professional Fees              | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 350.00    | 4,200.00   |
| Pest Control (6)                     | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 4,800.00   |
| Waste Removal (7)                    | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      | 0.00       |
| Security Services (10)               | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 2,942.50  | 35,310.00  |
| <b>TOTAL MAINTENANCE</b>             | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 770.83    | 9,249.96   |
| <b>UTILITIES</b>                     | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 6,000.00   |
| Electricity                          | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 400.00    | 4,800.00   |
| TV Signal                            | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 300.00    | 3,600.00   |
| Gas                                  | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 800.00    | 9,600.00   |
| Water/Sewer                          | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 2,000.00  | 24,000.00  |
| <b>TOTAL UTILITIES</b>               | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 500.00    | 6,000.00   |
| <b>OTHER</b>                         | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 1,493.67  | 17,924.04  |
| Management Fee                       | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 212.08    | 2,544.96   |
| Insurance (9)                        | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 62.50     | 750.00     |
| Property/Fire/Gen Liability/Fidelity | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 306.33    | 3,675.96   |
| Umbrella Liability                   | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 2,574.58  | 30,894.96  |
| D & O Liability                      | 23,207.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 275,734.96 |
| Flood                                | 2,270.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 29,999.96  |
| <b>TOTAL OTHER EXPENSES</b>          | 2,270.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 29,999.96  |
| <b>Total Operating Expenses</b>      | 23,207.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 22,957.08 | 275,734.96 |
| <b>Reserve Contributions</b>         | 2,270.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 2,520.83  | 29,999.96  |

**Notes:**

- (1) 24/7 coverage; association employees. Cost includes salary, payroll taxes, benefits, etc. Includes monthly valet payment to AOAO Waikiki Beach Tower of \$20.00 for each of 25 stalls
- (2) One emergency voice line for each elevator; four cell phones for security/valet/concierge use on shared 400 minute plan
- (3) Mechanical maintenance contract services (\$8,000/yr) (fire booster pumps, water booster pumps, heat pumps), backflow preventer (\$250/year), dry standpipe testing (\$1,000/year every five years)
- (4) Maintenance contract services for two elevators
- (5) Fire alarm monitoring (contracted) @ \$155/month, fire sprinkler testing @ \$600/year
- (6) Excludes termite control
- (7) Pick-up 2x per week, includes recyclables
- (8) Replacement value @ \$527.22/sq. ft.

EXHIBIT "L"

Summary of Pertinent Provisions of Sales Contract

A specimen Purchase Agreement ("Agreement") has been submitted to the Real Estate Commission. ALL PURCHASERS AND PROSPECTIVE PURCHASERS SHOULD CAREFULLY READ THE AGREEMENT IN FULL since this summary is NOT A COMPLETE DESCRIPTION of its contents. The Agreement contains, among other things, the following terms and conditions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. The Seller (Developer) has engaged Title Guaranty Escrow Services, Inc. ("Escrow") to handle Purchaser's funds and to close the transaction in accordance with the terms of the Agreement.

B. The Purchase Price does not include closing costs which include among other things, the escrow fee, cost of a preliminary title report, cost of preparation of the Condominium Unit Deed, real property tax, maintenance fees and other prorations, all acknowledgment fees, conveyance taxes, title insurance, if requested by Purchaser, cost of any lender's title insurance, appraisal fees, costs for drafting of any notes and mortgages, all recording costs or fees, loan fees, credit report costs and all other applicable mortgage costs. Purchaser shall pay as additional sums the Association start-up fees, estimated reserves and other fees, as provided in the Agreement.

C. Purchaser agrees to deliver, within fifteen (15) days after Seller's acceptance of the offer, written evidence of Purchaser's ability to make the cash payment for the balance of the purchase price.

D. The "Closing Date" shall be the date designated by Seller. All payments not previously made pursuant to the terms of the Agreement shall be due and payable as of the Closing Date, and, if not paid in the manner set forth in the Agreement, shall result in a default by Purchaser under the Agreement.

E. The Purchaser specifically acknowledges and agrees that the Declaration contains reservations of certain rights in favor of Seller, the Association and other owners and contains certain other provisions to which the Purchaser consents.

F. The Agreement shall become binding when:

a. Seller has delivered to Purchaser:

(1) a true copy of the Public Report, including all amendments thereto, together with the Project's recorded Declaration, By-Laws, and House Rules and Condominium Map, and all amendments thereto, **and**

(2) a notice of Purchaser's thirty-day cancellation right, upon which Purchaser may indicate that Purchaser has had an opportunity to read the Public Report, understands the Public Report, and exercises the right to cancel or waives the right to cancel, in accordance with Section 514B-86, Hawaii Revised Statutes;

b. And a Deemed Acceptance of the Public Report shall have taken place.

A "Deemed Acceptance of the Public Report" means that Purchaser has waived the right to cancel or is deemed to have waived the right to cancel.

The date the Agreement shall become binding as a contract for the purchase and sale of the Unit shall be the Effective Date. Until the Effective Date, the Agreement shall constitute only a "reservation" and not a binding contract, and may be unilaterally canceled at any time by either Seller or Purchaser by written notice to the other party, and upon such cancellation by either

party, Seller shall direct Escrow to refund to Purchaser all Deposits paid hereunder by Purchaser, without interest.

Upon the Effective Date, both Seller's and Purchaser's right of cancellation shall lapse and any subsequent attempt at such cancellation shall have no force or effect; provided, however, that Purchaser shall have a thirty-day right to rescind the Agreement in accordance with Section 514B-87, Hawaii Revised Statutes, if there is a Material Change in the Project. A "Material Change" means any change that directly, substantially, and adversely affects the use or value of: (1) The Unit or its appurtenant limited common elements; or (2) Those amenities of the Project available for Purchaser's use.

G. Purchaser agrees that it will not assign the Agreement to anyone. Seller may, without any consent of Purchaser, freely assign Seller's interests therein.

H. Purchaser agrees to intentionally waive, relinquish and subordinate the priority or superpriority of any interest under the Agreement in favor of the liens or charges upon the Project of the Seller's lenders mortgage loans.

I. Purchaser expressly acknowledges, consents to and approves all of the disclaimers, disclosures, and other matters described in Section 13, Subsections (a) through (l) of the Agreement, and Purchaser assumes any and all risks in connection with each of those matters. Purchasers are encouraged to review Section 13 of the Agreement carefully to fully understand the matters set forth therein.

J. Purchaser shall not be entitled to possession of the Unit as the owner thereof until Purchaser has completed all required payments and has executed all documents relating to the purchase, and Purchaser has performed the remaining terms and conditions of the Agreement which are to be performed as of the Closing.

L. Seller, in its sole discretion, and in addition to any other rights of cancellation or termination reserved to Seller, may elect to cancel the Agreement if Purchaser defaults under the Agreement. Purchaser may lose its deposit with Escrow and Seller. Seller may, at its option, pursue other legal remedies. If Seller defaults under the Agreement, and Purchaser is not in default, Purchaser shall be entitled to specific performance of the Agreement or, if specific performance is unavailable, shall have the right to cancel the Agreement and a refund of Purchaser's deposit, including interest, as set forth in the Agreement.

M. Notices to either party may be delivered personally or mailed.

N. The Purchaser acknowledges that Purchaser has entered into the Agreement without any reference or representation by Seller or any sales person that the Seller, or any managing agent of the Project or anyone else affiliated with the Seller will provide, directly or indirectly, any services relating to the rental or sale or management of the Apartment purchased.

O. The laws of the State of Hawaii shall govern all matters with respect to the Agreement.

P. Purchaser specifically acknowledges that Seller has reserved the right for itself, its sales representatives and prospective purchasers to utilize the common elements of the Project for ingress and egress and to show the common elements to prospective purchasers.

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

END OF EXHIBIT "L"

## EXHIBIT "M"

### Summary of Pertinent Provisions of Escrow Agreement

The Escrow Agreement dated September 12, 2006, contains among others, the following terms and conditions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. When Seller (Developer) shall enter into a purchase agreement for the conveyance of an unit or other interest in the Project ("Purchase Agreement"), it shall require the payments of deposits due thereunder to be promptly made to Escrow, and shall deliver an executed copy of the Purchase Agreement to Escrow together with the address of the Purchaser. Seller shall also promptly pay over to Escrow all monies (including checks) received by Seller from or on behalf of the Purchasers, including those received on any Purchase Agreement, and all payments made on loan commitments from lending institutions on account of any unit in the Project, other than funds received from interim financing.

B. Escrow shall receive, deposit and hold in separate escrow accounts and disburse as set forth in the Agreement: (a) all payments received by it under Purchase Agreements, and (b) such sums received by it under the Agreement from or for the account of Seller. Escrow shall not at any time commingle or permit the commingling of any Purchasers funds with funds belonging to or held for the benefit of Seller. All funds and instruments received from Purchasers or prospective Purchasers shall be held by Escrow in accordance with the provisions contained in Chapter 514B of the Hawaii Revised Statutes. All monies received by Escrow hereunder shall be deposited, within a reasonable time of the receipt by Escrow and in reasonably convenient and practical sums, in an interest-bearing account with a federal insured bank or savings and loan company under an escrow arrangement, and shall be held in immediately available funds in accordance with the terms the Agreement.

C. Escrow shall make no disbursements of Purchasers' funds or proceeds from the sale of units in the Project (including any payments made on loan commitments from lending institutions), except by way of refunds thereof as provided in the Agreement, until Escrow has received written certification from Seller stating that the Purchase Agreements have "become binding" and the requirements of Sections 514B-54, 514B-87, and 514B-92 of the Hawaii Revised Statutes have been met, and further, that a Public Report for the Project has been issued by the Real Estate Commission and Escrow has received a copy of Purchaser's notice of right to cancel, and Purchaser has waived the right to cancel, or thirty (30) days have elapsed since Purchaser received for such notice of right to cancel.

D. Each Purchaser shall be entitled to a return of his or her funds, without interest and less any cancellation fee, and Escrow shall pay such funds to such Purchaser, promptly after request for return by the Purchaser if one of the following has occurred:

(1) Escrow receives a written request from Seller to return to the Purchaser the funds of the Purchaser then being held by Escrow;

(2) Seller notifies Escrow in writing of Seller's exercise of the option to rescind the Purchase Agreement pursuant to any right of rescission stated therein or otherwise available to Seller;

(3) After the notice of Purchaser's right to cancel is delivered, Purchaser notifies Seller in writing that Purchaser has decided to cancel the Purchase Agreement within thirty (30) days of Purchaser's receipt of the notice of right to cancel; or

(4) There is any Material Change in the Project which that directly, substantially, and adversely affects the use or value of (1) the Unit or its appurtenant limited common elements; or (2) those amenities of the Project available for Purchaser's use, which Purchaser has not approved in writing, or Purchaser is otherwise entitled to rescind as provided in Section 514B-87.

Upon the return of said funds to the Purchaser as aforesaid, Escrow shall return to Seller such Purchaser's Purchase Agreement and any conveyancing documents theretofore delivered to Escrow pursuant to such Purchase Agreement; and thereupon the Purchaser shall no longer be obligated under the Purchase Agreement. Other documents delivered to Escrow relating to the sale of the unit identified in such Purchase Agreement will be returned to the person from whom or entity from which they were received.

Upon the cancellation of any Purchase Agreement as specified above, Escrow shall be entitled to a cancellation fee of up to \$250.00. Notwithstanding anything contained in the Purchase Agreement or Escrow Agreement to the Contrary, the cancellation fee is the sole expense of the individual Purchaser and not the obligation of Seller.

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

END OF EXHIBIT "M"