

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Robert L. Cross and Carolee Cross, Trustees of the Cross Family Trust
Business Address Post Office Box 483, Kapa'au, HI 96755

Project Name (*): TIARE
Address: 53-407 Halaula Maulili Road, Kapa'au, HI 96755

Registration No. 6471 (conversion)
Effective date: February 5, 2008
Expiration date: March 5, 2009

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

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

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

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report

Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Report

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

No prior reports have been issued by the developer.

Changes made are as follows:

SPECIAL ATTENTION

This is a Condominium Project, **not** a subdivision. The land area beneath and immediately appurtenant to each unit is designated as a LIMITED COMMON AREA and is NOT a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

This Public Report does not constitute approval of the Project by the Real Estate Commission, or any other governmental agency, nor does it ensure that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.

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

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

BASED ON DIRECTIVES ISSUED BY THE HAWAII COUNTY PLANNING OFFICE, WITHOUT THE DEVELOPER FIRST SATISFYING CERTAIN COUNTY REQUIREMENTS, THE PURCHASER MAY NOT BE ABLE TO DEVELOP, REPLACE, EXPAND, OR CONSTRUCT OTHER STRUCTURES FOR THIS CONDOMINIUM PROJECT IN THE FUTURE. PRIOR THE PURCHASE OF THE PROSPECTIVE PURCHASER IS ADVISED TO REVIEW THIS CONDOMINIUM PROJECT WITH THE RESPECTIVE HAWAII COUNTY PLANNING OFFICE TO RECEIVE THE MOST RECENT DIRECTIVE ON THIS ISSUE.

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General Information On Condominiums

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

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

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

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

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

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

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

Operation of the Condominium Project

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Robert L. Cross and Carolee Cross, Phone: (808) 884-5728
Trustees of the Cross Family Trust (Business)
Name*
Post Office Box 483
Business Address
Kapa'au, HI 96755

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

N/A

Real Estate Broker*: Kohala Pacific Realty, Inc. Phone: (808) 889-5181
Name (Business)
P. O. Box 307
Business Address
Kapaau, HI 96755

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 329-6666
Name (Business)
75-170 Hualalai Road, Ste. C310
Business Address
Kailua-Kona, HI 96740

General Contractor: _____ Phone: _____ (Business)
Name
Business Address

Condominium Managing Agent*: None – the Project will be self-managed
by the Association of Apartment Owners Phone: _____ (Business)
Name

Attorney for Developer: Colin L. Love Phone: (808) 329-2460
Name (Business)
77-6348 Alii Drive
Business Address
Kailua-Kona, HI 96740

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

II. CREATION OF THE CONDOMINIUM;
CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
 Book _____ Page _____
 Filed - Land Court: Document No. 3441763

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

First Amendment to Declaration of Condominium Property Regime of Tiare executed January 4, 2008 and recorded with the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3700697

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

The Condominium Map for this condominium project is:

Proposed
 Recorded - Bureau of Conveyances Condo Map No. _____
 Filed - Land Court Condo Map No. 1808

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

First Amendment to Declaration of Condominium Property Regime of Tiare executed January 4, 2008 and recorded with the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3700697

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

The Bylaws for this condominium are:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
 Book _____ Page _____
 Filed - Land Court: Document No. 3441764

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

First Amendment to Bylaws of the Association of Apartment Owners of Tiare dated January 4, 2008 and recorded with the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3700696

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents:**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>100%</u>
Bylaws	65%	<u>65%</u>
House Rules	_____	<u>100%</u>

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

2. **Developer:**

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

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

During the sales period, the Developer has reserved the right to make changes to the project documents and the project as may be required by law, a title insurance company, an institutional lender or any governmental agency prior to the conveyance or transfers of the first apartment, for any reason and in any manner, as the developer deems necessary under the circumstances, provided that no such change shall substantially alter or reduce the usable space within the Buyer's Apartment, render unenforceable the Buyer's mortgage commitment, increase the Buyer's share of common expenses, or reduce the obligations of the Developer for common expense on unsold apartments.

Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: 53-407 Halaula-Maulili Road. Tax Map Key: (TMK) (3rd) 5-3-009-004
Kapa'au, HI 96755

Address TMK is expected to change because N/A

Land Area: 16,199 square feet acre(s) Zoning: RS-15

Fee Owner: Robert L. Cross and Carolee Cross,
Trustees of the Cross Family Trust

Lessor: N/A
Name _____
Address _____

C. **Buildings and Other Improvements:**

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

2. Number of Buildings: 2 Floors Per Building 1

Exhibit A contains further explanation.

3. **Principal Construction Materials:**

Concrete Hollow Tile Wood
 Other _____

4. **Uses Permitted Use by Zoning:**

		No of <u>Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/>	Residential	<u>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	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	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?
 Yes No

5. Special Use Restrictions:

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

Pets: As provided in Paragraph 12.8 of the Bylaws

Number of Occupants: _____

Other: Except for vehicles belonging to guests, the owners/tenants of the apartments shall keep or park no more than two motor vehicles on the property at any one time. They shall not keep or allow any junked or abandoned vehicle or vessel on the property. The property shall not be used as a location for the repair of any vehicle or vessel if such repair includes painting other than minor touch-up, or the removal and rebuilding of any of a vehicle's or vessel's major parts other than as may be related to minor tune-ups and adjustments. If a vessel is kept on the property it shall be kept in the carport if one is available. The property shall not be used for the outdoor cleaning of any large fish or the slaughtering or outdoor cooking of any whole animals. The property shall not be used for dog kennels, or chicken or pig farming.

There are no special use restrictions.

6. Interior (fill in appropriate numbers)

Elevators: 0 Stairways: 0 Trash Chutes : 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
A	1	3/1	1,027	80/345	Lanai/Carport
B	1	3/2	1,034	107/436	Storage/Carport

Total Apartments 2

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

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

Boundaries of Each Apartment:

Each apartment includes, but is not limited to, the exterior finished surfaces of all walls, the doors and door frames, windows and window frames along the perimeters, the air space within the perimeter, and all fixtures originally installed in the apartment. The apartments include the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floor and ceilings surrounding each apartment and any pipes, shafts, wires, conduits or other utility or service lines running through or servicing only that apartment. which are utilized for or serve more than one apartment.

Permitted Alterations to Apartments:

Alterations or additions within an apartment may be made without prior written notice to or the approval of the Board of Directors. If an apartment is changed in any material way it will be necessary to file an Amended Declaration of Condominium Property Regime and submit amended Condominium File Plan, and amended elevations and floor plans for the modified apartment. The signature of all apartment owners will be required for the Amended Declaration of Condominium Property Regime.

Apartments Designated for Owner-Occupants Only:

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

7. Parking Stalls:

Total Parking Stalls: 4

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned Apt. "A"	<u>2</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>2</u>
Assigned Apt. "B"	<u>2</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>2</u>
Guest:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Unassigned:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Extra for Purchase:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total Covered & Open	<u>4</u>	<u> </u>	<u>0</u>	<u> </u>	<u>0</u>	<u> </u>	<u>4</u>

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

Commercial parking garage permitted in condominium project.

Exhibit "B" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool Storage Area Recreation Area

Laundry Area Tennis Courts Trash Chutes

Other: _____

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

There are no violations. Violations will not be cured.

Violations and costs to cure are listed below. Violations will be cured by _____ (Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years): According to a report by Hamlet C. Bennett, an independent Hawaii Architect dated, May 16, 2006, all of the structural components, mechanical and electrical installations material to the use and enjoyment of the project are in good condition consistent with the age of the improvements.

11. Conformance to Present Zoning Code:

a. No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

To allow the condominium project to access an existing paved road with a 40 feet wide right-of-way (Halaua Maulili Road) fronting the property. See Exhibit "H" attached

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u> x </u>	<u> </u>	<u> </u>
Structures	<u> x </u>	<u> </u>	<u> </u>
Lot	<u> x </u>	<u> </u>	<u> </u>

See Exhibit "H"

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

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

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

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

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

described in Exhibit C

as follows:

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

There are no limited common elements in this project:

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

described in Exhibit C .

as follows:

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

described in Exhibit _____

as follows:

Apartment "A" : Fifty Percent (50%)

Apartment "B" : Fifty Percent (50%)

Each apartment has an equal undivided fractional interest in all of the common elements. The common interests are equal and not related to or determined by the size of the apartments.

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit "D" describes the encumbrances against the title contained in the title report dated Sept 26, 2007 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conversion</u>
First Mortgage	If Developer defaults or the mortgage lien is foreclosed prior to conveyance to Buyer, Buyer's contract to purchase will be terminated and all of Buyer's funds will be refunded to Buyer, less escrow cancellation fees

F. Construction Warranties:

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

1. Building and Other Improvements:

The Owner/Developer makes no warranties itself and the Owner/Developer is not aware of any warranties from any general contractor, subcontractor or materials supplier that are in existence. The Owner/Developer will assign to the purchasers apartments such warranties as may exist, if any, and the Owner/Developer will cooperate with each apartment owner during the effective period of any warranty, if any, in asserting any claims.

2. Appliances:

None

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

All construction on Apartment "A" was completed during the year 1973.
All construction on Apartment "B" was completed during the year 1995.

H. **Project Phase:**

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

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

IV. CONDOMINIUM MANAGEMENT

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

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

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

- not affiliated with the Developer the Developer or the Developer's affiliate.
- self-managed by the Association of Apartment Owners other

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

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and 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 "E" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- None Electricity (_____ Common Elements Only _____ Common Elements & Apartments)
- Gas (_____ Common Elements only _____ Common elements & Apartments)
- Water Sewer Television Cable
- Other _____

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract
Exhibit "F" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated June 18, 2007
Exhibit "G" contains a summary of the pertinent provisions of the escrow agreement.
- Other Specimen Deed

B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

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

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

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

- 2 Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission
 - B) Declaration of Condominium Property Regime.
 - C) Bylaws of the Association of Apartment Owners.
 - D) House Rules.
 - E) Condominium Map.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other _____

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

Website to access official copy of the laws: www.capitol.hawaii.gov

Website to access unofficial copy of laws: www.hawaii.gov.dcca/hrs

Website to access rules: www.hawaii.gov.dcca/har

This Public Report is a part of Registration No. 6471 filed with the Real Estate Commission on September 26, 2007.

Reproduction of Report. When reproduced, this report must be on:

YELLOW paper stock

WHITE paper stock

PINK paper stock

C. **Additional Information Not Covered Above**

Pursuant to section 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules "(HAR)", prospective purchasers are hereby advised that Developer/Owner(s), Carolee Cross, RB18866, is a current active Hawaii licensed real estate broker. Pursuant to section 16-99-11(c), HSR, "(n)o licensee shall be allowed to advertise "For Sale by Owner', 'For rent by Owner', For Lease by Owner', For Exchange by Owner'."

There is only one County water meter for the property and the owners of Apartment "A" will be billed based on usage shown on a sub-meter.

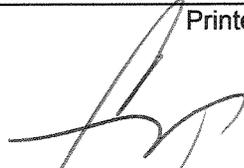
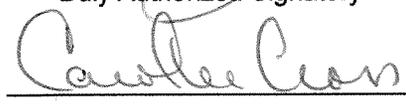
LEAD WARNING STATEMENT. Pursuant to federal law, 42 U.S.C. 4852(d), the Residential Lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based 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 seller 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 seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazard is recommended prior to purchase". The Developer discloses that he does not have an assessment or inspections relating to lead-based paint.

ASBESTOS WARNING STATEMENT Asbestos materials are hazardous to one's health, particularly if asbestos fibers are released into the air and inhaled. Prior to 1979, and possibly since, asbestos was a commonly used insulation material in heating facilities and certain types of flooring and ceiling materials, shingles, plaster products, cement and other building materials. Structures having "popcorn" or "cottage cheese" type ceilings may contain asbestos fibers or asbestos containing materials. Such ceilings should not be disturbed since it could release fibers into the air. Any disturbance should be done by licensed abatement contractors.

Variance 07-026 was granted for the project to allow access to the public highway by way of a private roadway with a 40 foot right-of-way. In conjunction with the variance the Developer entered into an Agreement, a copy of which is attached hereto as Exhibit "I" that in addition to other requirements obligates apartment owners to participate in any road maintenance agreement or/and pay their fair share to maintain the existing road and right-of- way (Maulili Loop) or Halaula Maulili Road.

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

Robert L. Cross and Carolee Cross, Trustees of the Cross Family Trust
 Printed Name of Developer

By:  _____ Duly Authorized Signatory*	<u>5/12/06</u> _____ Date
By:  _____ Duly Authorized Signatory*	<u>5/12/06</u> _____ Date

Robert L. Cross and Carolee Cross, Trustees/Developers/Fee Owners
 Print Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Hawaii
 Planning Department, County of Hawaii

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

EXHIBIT "A"
DESCRIPTION OF BUILDINGS, APARTMENTS

There are two (2) Buildings.

<u>Description of Buildings</u>	<u>Building "A"</u>	<u>Building "B"</u>
Number of stories	1	1
Number of basements	0	0
Number of apartments	1	1
Approximate age of building	33 years	11 years
Principal materials of construction	wood	wood
<u>Description of Apartments</u>	<u>Apartment "A"</u>	<u>Apartment "B"</u>
Apartment number	A	B
Location of apartment	Building "A"	Building "B"
Living area of apartment (Approx.)	1,027 sq. ft.	1,034 sq. ft.
Number of bedrooms	3	3
Number of bathrooms	1	1
Number of lanais or patios	1	0
Area of lanais or patios	80	0
Description of rooms in the apartment	3-bedrooms, 1-bath, 1-kitchen, 1-living room, 1-dining room and an attached carport parking for two standard vehicle.	3-bedroom.. 2-bath, 1 living room, 1-kitchen, and an attached carport with a laundry and parking for two standard vehicle
Immediate common element to which the apartment has access	The Limited Common elements surrounding the apartment and Common Element "C" shown on the Condominium Plan.	The Limited Common elements surrounding the apartment and Common Element "C" shown on the Condominium Plan.
Number of parking stalls that are part of the Limited Common Area for each apartment	2	2
Percentage of undivided interest in Common Elements	50%	50%
Other data necessary for proper identification of the apartment	This apartment is at the front of the parcel, and is the original home	This apartment is at the back of the parcel, and is the Ohana home

Net living area of enclosed portions of apartments are measured from interior surfaces of apartment perimeter walls. Lanai or patio areas considered as part of the apartment are computed and reported separately from the apartment area.

NOTE: FLOOR AREAS ARE APPROXIMATELY ONLY. THE DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF ANY PARTICULAR APARTMENT, LANAI OR PATIO.

CONDOMINIUM PLOT PL

TIARE

CONDOMINIUM PROJECT

SHOWING APARTMENTS "A" AND "B" ON THAT CERTAIN PARCEL OF LAND BEING LOT 120 AS SHOWN ON MAP 12 FILED WITH LAND COURT APPLICATION 1116, HALAULA, NO. KOHALA, HAWAII, HAWAII

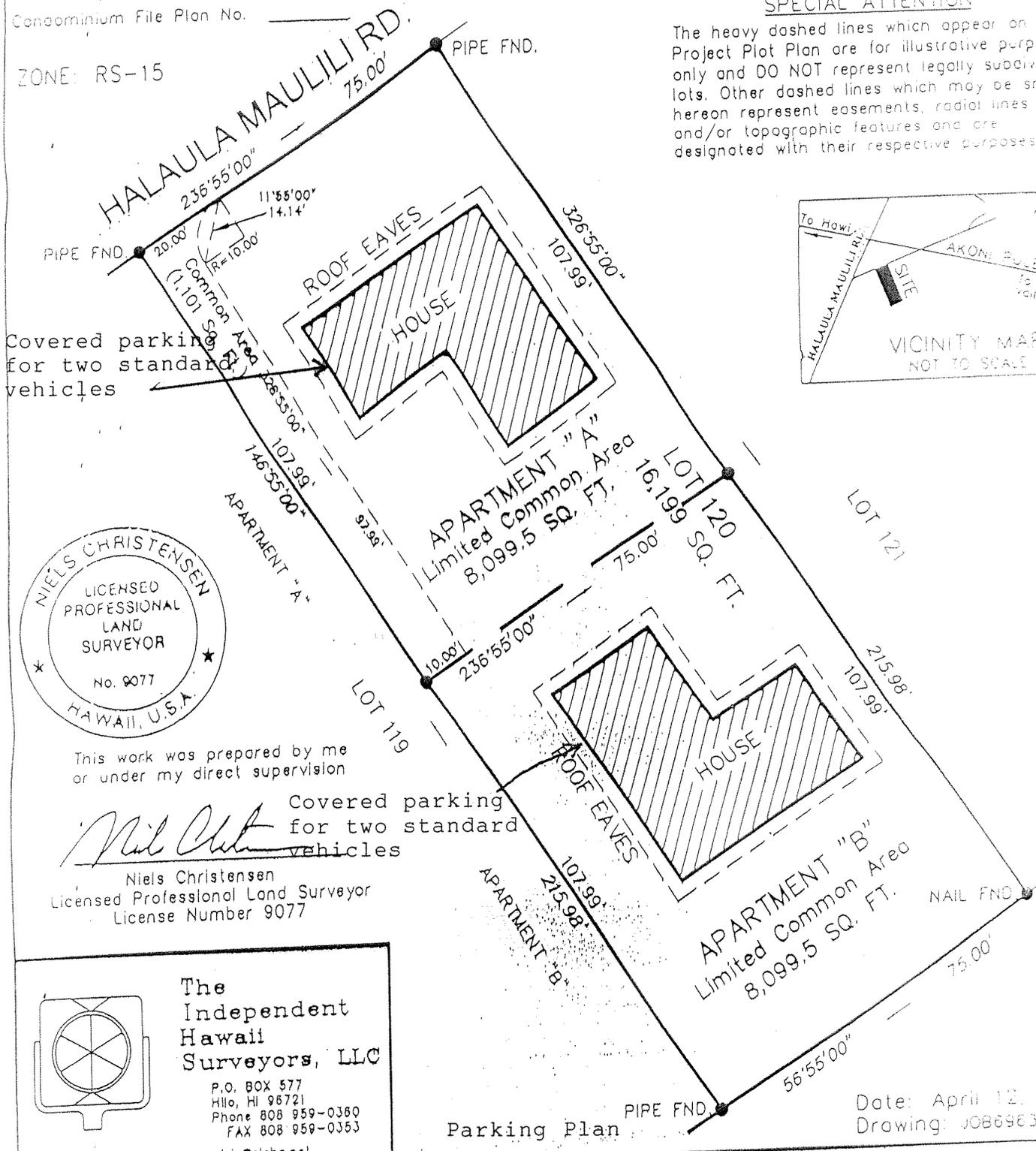
TMK: (3) 5-3-9: 4

Condominium File Plan No.

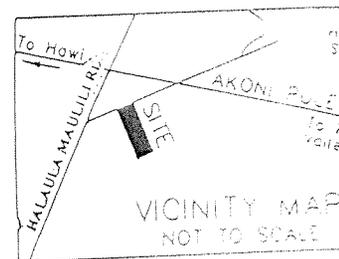
ZONE: RS-15

SPECIAL ATTENTION

The heavy dashed lines which appear on this Project Plot Plan are for illustrative purposes only and DO NOT represent legally subdivided lots. Other dashed lines which may be shown hereon represent easements, radial lines, and/or topographic features and are designated with their respective purposes.

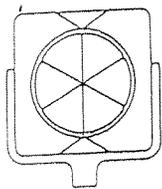


Covered parking for two standard vehicles



This work was prepared by me or under my direct supervision

Niels Christensen
 Covered parking for two standard vehicles
 Niels Christensen
 Licensed Professional Land Surveyor
 License Number 9077



The Independent Hawaii Surveyors, LLC

P.O. BOX 577
Hilo, HI 96721
Phone 808 959-0380
FAX 808 959-0353
niels@oloho.net

Parking Plan

Date: April 12, 2007
Drawing: 0086963E

Exhibit "B"

EXHIBIT "C"
DESCRIPTION OF COMMON ELEMENTS
AND
LIMITED COMMON ELEMENTS

All of the property is Fee Simple.

In the various documents relating to this project, the term "Common Element" means the same thing as the term "Common Area", and the term "Limited Common Element" means the same thing as "Limited Common Area".

Common Elements are those portions of the condominium project other than the individual apartments. Common Elements are owned jointly by all apartment owners. The owners of each apartment own an undivided one-half (1/2) interest (undivided 50% interest) in all of the Common Elements for all purposes, including voting. This means that the ownership **does not** depend on the size of an apartment or the use to which an apartment is put. The Common Elements include the land upon which the project is located, in fee simple, and all other portions of the project, other than the Apartments, including, specifically, but not limited to, the Common Elements mentioned in the Act that are actually constructed on the land, and all other portions of the Project necessary or convenient to its existence, maintenance and safety or normally in common use and which are not included as part of an apartment, including but not limited to following:

- (a) The land in fee simple;
- (b) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the project, if any, which serve more than one (1) apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution, if any.
- (c) The roof and all load bearing perimeter walls that serve more than one apartment, if any;
- (d) Any and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the Project.
- (e) The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act.
- (f) Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium Apartment(s) which are filed of record.
- (g) All the rights, benefits and privileges, if any, inuring to the land or to the Condominium from all easements shown on the File Plan or listed in Exhibit "A", or acquired subsequent to the creation of those documents.
- (h) Any and all other portions of the land and improvements that are not specifically designated for use by one or more specific Apartments, but which are intended for common use,

including any directory facilities that may be established, and all other apparatus and installations the use of which exists for, is rationally allocated to or is necessary to the existence, upkeep and safety of more than one Apartment of the Condominium Project or which may otherwise be of common use.

(i) Common Element "C" shown on the Condominium File. It serves as a driveway for both apartments and contains 1,101 square feet.

Unless clearly repugnant to the context thereof, the term "Common Elements" also means and includes the limited common elements hereinafter described.

Limited Common Elements are those portions of the Common Elements which are reserved for the exclusive use of the owners of certain apartments. They are often referred to as Limited Common Area.

Limited Common Elements for Apartment "A". The Limited Common Elements for Apartment A are the approximately 8,099.5 square feet of land appurtenant to Apartment "A". The land appurtenant to Apartment "A" is indicated by a dashed line on the Condominium File Plan. The dashed line, metes and bounds, courses and distances, and statement of a land area on Condominium File Plan **do not** indicate that the land has been subdivided. They only define the Limited Common Area for Apartment "A".

Limited Common Elements for Apartment "B". The Limited Common Elements for Apartment "B" are the approximately 8,099.5 square feet appurtenant to Apartment "B". The land appurtenant to Apartment "B" is indicated by a dashed line on the Condominium File Plan. The dashed line, metes and bounds, courses and distances, and statement of a land area on the Condominium File Plan **do not** indicate that the land has been subdivided. They only define the Limited Common Area for Apartment "B".

Each apartment has an equal undivided one-half (1/2) interest (undivided 50% interest) in all of the common elements for all purposes, including voting.

End
Exhibit "C"

EXHIBIT "D"
ENCUMBRANCES AGAINST TITLE

1. Real Property Taxes, if any, that may be due and owing. Check with the County of Hawaii Department of Finance for Real Property Taxes due and owing

2. The terms and provisions contained in the following:

INSTRUMENT : DEED

DATED : July 6, 1973

FILED : Land Court Document No. 651586

3. MORTGAGE

LOAN/ACCOUNT NO. 0009622055704005

MORTGAGOR : ROBERT L. CROSS AND CAROLEE
CROSS, TRUSTEES OF THE CROSS
FAMILY TRUST OF 1991, DATED
MARCH 21, 1991

MORTGAGEE : MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., as
nominee for COUNTRYWIDE HOME
LOANS, INC., a New York corporation

DATED : April 7, 2005

FILED : Land Court Document No. 3255617

AMOUNT : \$408,000.00

4. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM
PROPERTY REGIME FOR
"TIARE" CONDOMINIUM PROJECT

DATED : May 12, 2006

FILED : Land Court Document No. 3441763

MAP : 1808 and any amendments thereto

5. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF

APARTMENT OWNERS

DATED : May 12, 2006
FILED : Land Court Document No. 3441764

6. The terms and provisions contained in the following:

INSTRUMENT: FIRST AMENDMENT TO
DECLARATION OF CONDOMINIUM
PROPERTY REGIME OF TIARE

DATED: JANUARY 4, 2008
FILED: Land Court Document No. 3700697
MAP: 1808 and any amendments thereto

7. The terms and provisions contained in the following:

INSTRUMENT: FIRST AMENDMENT TO THE BYLAWS
OF THE ASSOCIATION OF
APARTMENT OWNERS OF TIARE

DATED: JANUARY 4, 2008
FILED: Land Court Document 3700696

End Exhibit "D"

EXHIBIT "E"

**ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Estimate of Initial Maintenance Fees

<u>Apartment</u>	<u>Monthly Fee x 12 months =</u>	<u>Yearly Total</u>
A	\$00.00	\$00.00
B	\$00.00	\$00.00

Note – no monthly maintenance fees have been estimated for this project because the only Common Area on the project that is available to all of the Apartment Owners is a paved driveway that does not require maintenance. Each Apartment owner is required to maintain its own limited common area. Any repairs or replacements in the future may be treated as a special assessment by the owners at that time

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

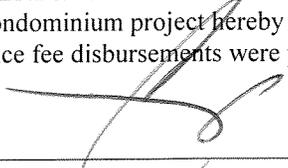
EXHIBIT "E" (Cont.)

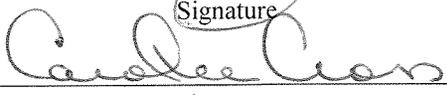
Estimate of Monthly Fee Disbursements

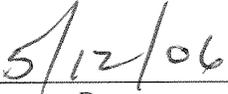
Utilities and Service	<u>Monthly Fee x 12 months = Yearly Total</u>	
Air Conditioning (Service)	0	0
Electricity	0	0
[] common elements only	0	0
[] common element and apartments	0	0
Elevator	0	0
Gas	0	0
Refuse Collection	0	0
Telephone	0	0
Water and Sewer	0	0
Maintenance, Repairs and Supplies		
Building	0	0
Grounds	0	0
Management		
Management Fee (bookkeeping)	0	
Payroll	0	
Office	0	
Insurance	0	
Reserve (*)	0	
Taxes and	0	
Audit Fees	0	
Other	0	
TOTAL	0	

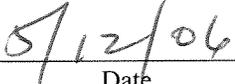
Developer discloses that no reserve study was done in accordance with Section 514A-83.6 HRS and replacement reserve rules, Subchapter 6 Title 16, Chapter 107 Hawaii Administrative Rules as amended.

We, ROBERT L. CROSS and CROLEE. CROSS, Trustees of the Cross Family Trust as developers for the TIARE condominium project hereby certify that the above estimate of initial maintenance fee assessment and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles


 Signature


 Signature


 Date


 Date

(*)Mandatory reserve assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserve", the Developer has conducted a reserve study in accordance with §514A-836, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514-A-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 meeting

End Exhibit "E"

EXHIBIT "F"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit, Receipt and Sales Contract contains the price and other terms and conditions under which a Purchaser will agree to buy an apartment in the project. Among other things, the Deposit, Receipt and Sales Contract states:

1. The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of an apartment.
2. That the Purchaser acknowledges having received and read a final public report for the Project prior to signing the Deposit, Receipt and Sales Contract.
3. That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefits to be derived from the purchase of an apartment.
4. That the Purchaser's money will be held in escrow, under the terms of the Escrow Agreement. The Purchaser's money can only be disbursed by escrow if the sale is canceled by the Purchaser, if the sale closes according to the terms of the Deposit, Receipt and Sales Contract, if the Purchaser is in default, if the Purchaser dies or is dissolved, or if the Seller and the Purchaser agree otherwise in writing.
5. The Purchaser has a right to cancel the Deposit, Receipt and Sales Contract before the apartment has been transferred to him or at any time within thirty (30) days after delivery of the Public Report, whichever is earlier and to have all money paid into escrow refunded less any escrow cancellation fees and other costs, up to \$250, by giving notice to the Seller as provided by HRS § 514A-62 (d), as amended.
6. If the Purchaser does not cancel the Deposit, Receipt and Sales Contract as provided in Paragraph 5, and more than thirty days have passed since the delivery of the Public Report to the Purchaser then the Deposit, Receipt and Sales Contract is binding on the Purchaser. If the Purchaser fails purchase the apartment after the Deposit, Receipt and Sales Contract becomes binding upon the Purchaser then the Purchaser will be in default. If the Purchaser is in default then the Seller will be entitled to cancel the Deposit, Receipt and Sales Contract and retain all money paid by Purchaser up to 20% of the sales price as liquidated damages.
7. If the Purchaser dies prior to closing, or in the case of a corporation or partnership, dissolves prior to closing, the Seller may return the Purchaser's payments, without interest and less Escrow cancellation fees and all costs incurred by the Seller, Escrow, or any lending institution in processing this Deposit, Receipt and Sales Contract or by loan application, and this Deposit, Receipt and Sales Contract will be deemed to have been canceled and both the Seller and the Purchaser (including the Purchaser's estate and legal representatives) shall be released from all obligations and liability under that agreement.
8. Requirements relating to the Purchaser's financing of the purchase of an apartment.
 - a. The Purchaser's offer is **not** contingent on the Purchaser obtaining financing or on the Purchaser's ability to pay.
 - b. In the event the Purchaser wishes to finance the purchase of the Apartment, the Purchaser is required to apply for financing within ten business days from the date the agreement to purchase becomes a binding contract. The Purchaser is required to use his best efforts to obtain

the mortgage loan in good faith; to execute and deliver all necessary documents and disclose all information; to pay any and all costs, charges and expenses in connection with the mortgage loan; to otherwise promptly and diligently comply with all requests of the mortgagee and/or the Seller to apply for, obtain and close the mortgage loan; and, where deemed necessary by the Seller, to make further applications for a mortgage loan.

c. The Purchaser may be required to pay a loan fee in order to get a loan.

d. The Seller has no obligation to arrange for the Purchaser's mortgage or other financing.

9. That the apartment and the Project will be subject to various legal documents which Purchaser should examine, and that the Developer may change these documents under certain conditions.

10. That the Developer makes no warranties regarding the apartment, the Project or anything installed or contained in the apartment or the Project.

11. That the Purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price. The closing date will be set by the Seller, but it will not be sooner than sixty (60) days after the Deposit, Receipt and Sales Contract becomes binding.

12. On closing the Purchaser will be responsible for the payment of certain costs in addition to the purchase price. Typical closing costs for the Purchaser and the Seller include:

Item	Seller	Purchaser
Escrow fees	Scheduled Rate	Scheduled Rate
Recording		\$25 per document
Lien Check	\$20	\$20
Real Property Tax Check	\$2.00	
Documents	\$120 for a deed	\$140 for a purchase money mortgage
Hurricane Insurance Fund		.001 x the amount of any mortgage
Real Property Taxes & assessments	Prorated	Prorated
Conveyance tax	.001 x sale price	

The Deposit, Receipt and Sales Contract contain various other important provisions relating to the purchase of an apartment in the Project. It is incumbent upon Purchasers and prospective Purchasers to read with care the specimen Deposit, Receipt and Sales Contract on file with the Real Estate Commission.

EXHIBIT "G"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a Buyer makes pursuant to the Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

1. Escrow will let the Buyer know when payments are due.
2. Escrow will arrange for the Buyer to sign all necessary documents.
3. The Buyer will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract. Those circumstances include the following:
 - a. If the Seller is not able to provide the Buyer with clear title at the time of closing;
 - b. The Buyer has a right to cancel the Deposit, Receipt and Sales Contract before the apartment has been transferred to him or at any time within thirty (30) days after delivery of the Public Report, whichever is earlier and to have all money paid into escrow refunded less any escrow cancellation fees and other costs, up to \$250, by giving notice to the Seller as provided by HRS § 514A-62 (d), as amended.
4. Subject to the conditions set forth below, the Buyer of a condominium unit under a sales contract shall be entitled to a refund of all payments made to date thereof, less such fee as hereinafter enumerated, if any, and without interest. Escrow agrees to make such refunds to Buyer out of funds then on deposit with Escrow, if Buyer shall so request in writing and any one of the following events shall have occurred.
 - a. Escrow has received a written request from Developer to return to the buyer the funds of such buyer then held by Escrow; or
 - b. Developer shall have notified Escrow of Developer's exercise to cancel or rescind the sales contract pursuant to any right of cancellation or recession provided therein or otherwise available to Developer; or
 - c. With respect to a buyer whose funds were obtained prior to the issuance of the Final Public Report, the buyer has exercised his right to cancel the contract pursuant to § 514A-62, Hawaii Revised Statutes, as amended; or
 - d. A buyer has exercised his right to rescind the contract pursuant to § 514A-63, Hawaii Revised Statutes, as amended; or
 - e. If, in accordance with Part VI of Chapter 514A, Hawaii Revised Statutes, as amended:
 - i. No sales contract is offered to a buyer who was placed on the Developer's reservation list of owner-occupant applicants; or
 - ii. The buyer has been unable to obtain adequate financing, or a commitment for adequate financing, for his unit within thirty (30) calendar days following the end of the ten (10) calendar day period during which the developer is limited to selling to owner-occupants; or
 - iii. The buyer desires to cancel the contract on account of hardship circumstances such as those set forth in § 514A-104(1) Hawaii Revised Statutes, as amended; or
 - iv. The buyer indicates an intent not to become an owner-occupant of such unit.
5. The Escrow Agreement also establishes the procedures for the retention and/or disbursement of a Buyer's funds, and says what will happen to the funds upon a default under the Sales Contract.

a. Retention of Buyer's funds. The Escrow will retain the Buyer's funds until the escrow is ready to close. When the Escrow is ready to close, the Escrow will disburse the Buyer's funds according to the terms of the Escrow Agreement.

b. Disbursement of Buyer's funds. If for some reason the escrow cannot close, either because of the fault of the Seller or the Buyer, then the Escrow will disburse the Buyer's funds, less escrow costs and fees of up to \$250.00, as follows:

(a) To the Buyer if the Buyer is entitled to a refund;

(b) To the Seller if the Buyer is in default (see below); or

(c) In accordance with any subsequent agreement signed by both the Seller and the Buyer.

6. Indemnification of Escrow. In the Sales Contract the Seller and the Buyer agree that they will be jointly and severally liable to Escrow for all losses, costs, damages or money owed, including reasonable attorneys' fees, that Escrow must pay as a result of this Sales Contract. If Escrow has the right to collect these amounts from any other person, then that right shall belong to the Seller after the Seller pays Escrow. However, neither the Seller nor the Buyer has to pay to Escrow any losses, costs, damages, money owned or attorneys' fees if Escrow has done something wrong or doesn't do something it is supposed to do and that act or failure to act is not reasonable or responsible.

The Escrow Agreement contains various other important provisions and establishes certain charges with which a Buyer should be familiar. It is incumbent upon Buyers and prospective Buyers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

May 25, 2007

Mr. Robert Cross
P. O. Box 483
Kapaau, HI 96755

Dear Mr. Cross:

SUBJECT: VARIANCE-VAR 07-026
Applicant: ROBERT CROSS
Owner: CROSS FAMILY TRUST
Request: Variance from Chapter 23, Subdivisions,
Improvements Required
Tax Map Key: 5-3-009:004

After reviewing your variance application, the Planning Director certifies the approval of VAR 07-026 subject to variance conditions. The variance allows proposed Hale Maulili Condominium Project to access existing paved road within the 40 feet wide right-of-way (Halaula Maulili Road) fronting subject TMK property. The variance request is from Hawaii County Code, Chapter 23, Subdivisions, Article 12, Condominium Property Regimes, Section 23-140, Exemptions, (c)(3).

BACKGROUND

1. **Location.** The subject property containing approximately 16,199 square feet is Lot 120 as shown on Map 12 filed with Land Court Application 1116 and situated at Halaula, North Kohala, Hawaii.
2. **Zoning.** The subject property is zoned Single-Family Residential (RS-15) by the County and designated Urban ("U") by the State Land Use Commission (LUC).

The first dwelling unit was constructed on the subject TMK property circa 1973. The subject TMK property was issued Ohana Dwelling Permit (OD 92-308) on November 30, 1992 to allow a second dwelling unit to be built on the subject TMK property. A building permit to construct the second (ohana) dwelling unit including driveway and other site improvements was issued on April 30, 1993.

Exhibit "H"

3. **Condominium Property Regime (CPR) Determination.** The owner's attorney submitted letter dated June 23, 2006 and submittals requesting information for proposed "TIARE" condominium project to the Planning Department. The Planning Department determination letter dated February 23, 2007 states in part:

"According to our files the subject 16,199-sf property was created by subdivision (SUB 2288) on May 6, 1965. Access is via a private road with a 40-foot right-of-way. You have confirmed that the roadway is paved to a width of approximately 21 feet.

Pursuant to Section 23-140(c)(3) of the Hawaii County Code (HCC) (Subdivision Code) the Planning Director may certify compliance with all County laws if requested under §514A-40, Hawaii Revised Statutes (HRS) to permit the developer to obtain an effective date for a final public report for a CPR creating two units on a lot, if the project lot has legal access on a State or County road having a minimum 20-foot wide pavement or on a private road built to current County-dedicable standards.

The current County of Hawaii standards for the subject residential road call for a 50-foot (R-33) paved right-of-way according to R-34 specifications for roads and shoulders.

In view of the above, we must regretfully deny your client's request for qualification of exemption from §23-124 of the Subdivision Code to allow for the creation of a CPR on the subject property. However, your client may apply for a variance from §23-140(c)(3) that would allow for confirmation that the subject property is in compliance with the HCC for the purposes of securing an effective date for a final public report. Please be advised that the mere application for a variance does not guarantee approval. An application for Variance from Subdivision Code is enclosed for your convenience."

4. **Variance Application.** The applicant-owner submitted the subject variance application on March 29, 2007.

The applicant's addendum or background report for the (Tiare Project) on the subject TMK property states in part:

Page 1. "The Purposed and Nature of this request is to allow the conversion of two older single family homes from their present status as rental units under one ownership (Mine), to become tow separately owned homes on the same lot."

“The 1965 subdivision complied with the intent and limits of the criteria at that time. Such a dramatic change in roadwidth (sic) status today should be viewed as totally not conforming with the intent of the subdivision statutes--At least with the rural welfare of this subdivision (sic)

The private road in front of the few modest homes was never planned for such a right-of-way because the homes are all low income residential. To propose such a widening—then or now—would compromise the essential rural character of the neighborhood.

The street serves only a handful of homes, several with legal second homes in place. No additional structures are planned, and no material or visible changes to the property will occur if you grant a variance from what obviously is not a prevalent rural standard.”

5. Agency Comments and Requirements: VAR 07-026:

- a. The Department of Water Supply (DWS) memorandum dated May 9, 2007 states in part:

“We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject parcel is currently served by one (1) existing 5/8-inch meter (Account No. 750-47400). Through copy of this letter, the applicant shall be informed that water availability is limited to the existing 5/8-inch meter and no additional services are available. Further, a 5/8-inch meter is limited to a maximum daily use of 600 gallons and suitable for only one single-family dwelling. Both homes on the subject parcel should not share the existing meter.”

- b. The State Department of Health (DOH) memorandum is dated May 10, 2007. (Refer to DOH memorandum in variance file).

- c. The County of Hawaii-Hawaii Fire Department (HFD) memorandum dated May 10, 2007 states in part:

“We have no comment to offer at this time in reference to the above-mentioned Variance application request.”

6. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted copy of notice, attachments, and proof of mailing notice to the Planning Department on May 15, 2007. The list and mailing receipts are dated May 10, 2007.

Posted Sign. The applicant submitted affidavit dated May 9, 2007 and photograph of sign (Exhibit A) posted on the property.

7. **Comments from Surrounding Property Owners or Public.** No other agency comments were received. The following written objections to the variance application were received:

- 7a. Objection letter from Benjamin J. Fisher received on May 15, 2007.

The Planning Department received copy of the applicant's letter addressed to Mr. Ben Fisher dated May 19, 2007 on May 25, 2007.

ALTERNATIVES/SPECIAL AND UNUSUAL CIRCUMSTANCES

Project Access/Roadways. The first alternative requires the applicant or "Developer" of the CPR "Tiara Project" to access meet the roadway requirement pursuant of the Chapter 23, Section 23-140, Exemptions, (c)(3) which states:

"The lot has legal access on a State or County road having a minimum 20-foot wide pavement or on a private road built to current County dedicable standards", or access to the project is via minimum 20 feet wide paved road within minimum 50 feet wide right-of-way built to dedicable standards or DPW Standard Detail R-34.

The second alternative acknowledges the subject TMK property and proposed condominium project can access privately owned 21 feet wide paved road within existing privately owned 40 feet right-of-way (Maulili Loop) fronting the property (TMK: 5-3-009:087, Lot 216 and Lot 217) which connects to Akoni Pule Highway and acknowledge an existing 21 feet wide paved road fronting the proposed CPR project meets the minimum 20 feet paved road requirement.

INTENT AND PURPOSE OF THE SUBDIVISION CODE

Roadway Variance. The intent and purpose of access requirements to a proposed CPR is to ensure that the physical access to the proposed CPR clearly defined and accessible from a by domestic and police, fire, and other service vehicles under various weather conditions without constant maintenance.

Mr. Robert Cross
Page 5
May 25, 2007

The subject property and adjoining lots are residential in character. The property's access of status of ownership of the privately owned right-of-way fronting the property was created in 1965 prior to adoption of the 1967 Zoning and Subdivision Codes by the County of Hawaii. Therefore, given that proposed "Tiara" Condominium Project can access a minimum 20 + feet road (according to information and photographs in the Planning Department files) within the Maulili Loop Road identified on the condominium map dated February 23, 2006, there should be no adverse impact by allowing the proposed project to utilize the existing privately owned roadway within the 40 feet wide right-of-way. Road maintenance for the roadway fronting the subject TMK property will be continued to be privately addressed and shared among the current owners and users.

Based on the foregoing findings, the applicant's request for variance from Chapter 23, Subdivisions, would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance requested will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

DETERMINATION-VARIANCE CONDITIONS

The variance requested to allow a proposed CPR of the subject TMK property to access the existing privately owned paved roadway within privately owned 40 feet road right-of-way fronting subject TMK property is approved subject to the following variance conditions:

1. The applicant, owners, their assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. ROAD VARIANCE. The subdivider, owners, their assigns, or successors understand that the "Tiara" Condominium Project will use and maintain the privately owned road fronting the subject TMK property on their own without any expectation of governmental assistance to maintain the existing access or roadway improvements within the privately owned 40 feet wide right-of-way (Maulili Loop or Mauili Road denoted on the CPR project map dated February 23, 2006).

The applicant, owners, their assigns, or successors shall file a written agreement or approved written document with the Planning Department within one (1) year from the date of this letter and shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Planning Department at the cost and expense of the applicant-owner.

- a. The applicant or owner shall indemnify and defend the State of Hawaii or County of Hawaii from any and all liability arising out of vehicular access to and from the subject CPR project utilizing Maulili Loop or Halaula Maulili Road.

Upon written demand of the County of Hawaii, the applicant and /or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements fronting the subject TMK property or "Tiara" CPR. Should the improvement district require acquisition of any privately owned rights-of-way fronting the subject TMK property, such rights-of-way shall be dedicated to the County without cost and the value of the dedication credited to the fair share contribution of the respective lot owner(s). Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- b. The future owner(s) agree to participate in any road maintenance agreement or/and pay their fair share to maintain the existing road and right-of-way (Maulili Loop) or Halaula Maulili Road.

In the event that there are any amendments or changes to the CPR after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the written or recorded agreement shall be binding upon the owner(s), their successors or assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title or ownership of the existing property or approved CPR project.

4. The CPR map shall meet all the requirements of the Hawaii County Zoning Code and/or Subdivision Code not covered by this variance. No other variances from Chapter 23, Subdivisions, shall be granted to permit the proposed CPR.
5. The subdivider, owner(s), their assigns or successors shall pay any outstanding real property taxes and comply with all other applicable State statutes and County ordinances pertaining to building improvements and land use.

Mr. Robert Cross
Page 7
May 25, 2007

Should any of the foregoing stated conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Thank you for your understanding and patience during our review.

Sincerely,

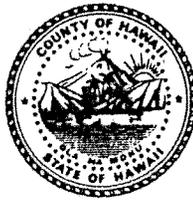


CHRISTOPHER J. YUEN
Planning Director

WRY/DSA:cd
P:\WP60\WRY\FORMLETT\VAR07-026SUBROADWAYTMK53009004.CROSS

xc: DPW-Engineering Branch
Benjamin J. Fisher
OD 92-308

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

September 20, 2007

Mr. Colin L. Love, Esq.
P.O. Box 2072
Kailua- Kona, Hawaii 96745

Dear Mr. Love:

SUBJECT: Condominium Registration Information
Project: TIARE
Developer: Cross Family Trust, Robert L. Cross and Carolee Cross Trustees
Tax Map Key: (3) 5-3-009:004; Kapaʻau, North Kohala, Hawaiʻi

This is in response to your letter, dated September 20, 2007, and the previously submitted Notice of Intention and Questionnaire, Declaration of Condominium Property Regime, Condominium Public Report for the project. Additional information previously submitted also included a corrected CPR map that was transmitted by fax on August 8, 2006 and the photos and additional information provided in your February 9, 2007 emails as well as the several phone conversations with staff. The proposed condominium consists of two limited common elements of 8,099.5 square feet each.

According to our files, the subject 16,199-square-foot property was created by subdivision (SUB 2288) of a larger parcel on May 6, 1965. The property is zoned Single-Family Residential (RS-15) and is situated in the State Land Use Urban district. The property is not situated within the Special Management Area.

The following is our response to your request for the issuance of a written statement, pursuant to the requirements of Hawaii Revised Statutes §514A-40(b)(1), regarding the referenced condominium project.

1. The existing buildings on the property were constructed in compliance with all zoning ordinances and codes applicable to said buildings. A statement of compliance with all building codes should be requested from the Department of Public Works – Building Division.

Mr. Colin L. Love, Esq.
Page 2
September 20, 2007

- a) BP #H51341 was issued on February 24, 1972 to construct a new ranch style 3-bedroom house with a major floor area of 880 s.f.
 - b) BP #H52876 was issued on June 30, 1972 to allow for a 4'x22' addition to the dwelling under construction (BP #H51341)
 - c) BP #882391 was issued on December 19, 1988 to allow for the addition of a new 20'x24' carport with a 20'x24' patio/game room.
 - d) Ohana Dwelling Unit Permit No. 2898 was approved on November 30, 1992 to allow a second dwelling on the subject lot.
 - e) BP #935427 was issued on April 30, 1993 to construct a new 1,152-square foot ohana dwelling.
2. No non-conforming uses or structures have been identified on the subject property.
 3. Variance No. 07-026 was issued on May 25, 2007, to allow the Planning Director to certify the proposed 2-unit condominium project as compliant with the Subdivision Code when its access is provided by the existing sub-standard Halaula Maulili Road.
 4. Regarding minimum lot size requirements, we find that the subject CPR project is in compliance with the Hawaii County Subdivision Code, pursuant to §23-140(c)(3).

All property buyers must comply with Chapter 25 of the Hawaii County Code.

Should you have questions, please feel welcome to contact Daryn Arai or Larry Brown at 961-8288.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

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End Exhibit "H"

THE ORIGINAL OF THE ORIGINAL
RECORD

DURATION OF THE ORIGINAL

Doc 2007-158479

SEP 05, 2007 08:02 AM

LAND COURT

REGULAR SYSTEM

(AREA ABOVE RESERVED FOR RECORDING INFORMATION)

After Recordation, Return by Mail

Phone 808-961-8288

Christopher Yuen,
Planning Director
County of Hawaii
Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

DOCUMENT CONTAINS 3 PAGES

EXHIBIT "I"

AGREEMENT

As a condition of the granting of Variance VAR 07-026 ROBERT L. CROSS and CAROLEE CROSS, Trustees of the Cross Family Trust, whose address is, Post Office Box 483, Kapa'au, Hi 96755 as "Applicant" or "Owner" agree as follows:

- A. The applicant or owner shall indemnify and defend the State of Hawaii or County of Hawaii from any and all liability arising out of vehicular access to and from the subject CPR project utilizing Maulili Loop or Halaula Maulili Road.

Upon written demand of the County of Hawaii, the applicant and /or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements fronting the subject TMK property or "Tiara" CPR. Should the improvement district require acquisition of any privately owned rights-of-way fronting the subject TMK property, such rights-ofway shall be dedicated to the County without cost and the value of the dedication credited to the fair share contribution of the respective lot owner(s). Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

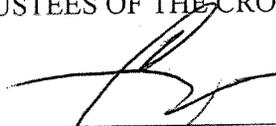
- B. The future owner(s) agree to participate in any road maintenance agreement or/and pay their fair share to maintain the existing road and right-of-way (Maulili Loop) or Halaula Maulili Road.

In the event that there are any amendments or changes to the CPR after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the written or recorded agreement shall be binding upon the owner(s), their successors or assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title or ownership of the existing property or approved CPR project.

JUL 23 2007

Executed at Kap'au, Hawaii _____

TRUSTEES OF THE CROSS FAMILY TRUST



ROBERT L. CROSS



CAROLEE CROSS

Approved as to form and content

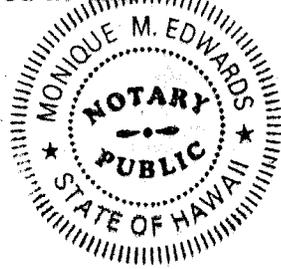
[Handwritten Signature]

~~Christopher J. Yuen
County of Hawaii Planning Director~~

Brad Kupokawa
Deputy Planning Director

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On JUL 23 2007, 2007, before me personally appeared ROBERT L. CROSS, and CAROLEE CROSS, Trustees of the Cross Family Trust, to me known to be the persons described in and who signed the foregoing instrument and who acknowledged that they signed the same as their free act and deed as said Trustees.



Monique M Edwards
Notary Public, In and For
the above County and State
Type/Print Name: **MONIQUE M. EDWARDS**
My commission expires NOTARY PUBLIC, STATE OF HAWAII
COMMISSION EXPIRES: 11/4/2010

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

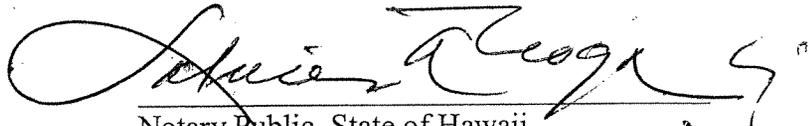
On _____, 2007, before me personally appeared CHRISTOPHER J. YUEN, to me known to be the person described in and who signed the foregoing instrument and who acknowledged that he signed the same as his free act and deed.

Notary Public, In and For
the above County and State
Type/Print Name: _____
My commission expires: _____

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 30th day of August, 2007 before me personally appeared Brad Kurokawa, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Brad Kurokawa acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga



Notary Public, State of Hawaii

My commission expires: 07/17/10