

**AMENDED DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME	THE CABANA AT WAIKIKI
Project Address	2551 Cartwright Road, Honolulu, Hawaii 96815
Registration Number	6620 (conversion)
Effective Date of Report	July 20, 2010
Developer(s)	CARTWRIGHT ROAD ASSOCIATES, 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.]

## TABLE OF CONTENTS

	<u>Page</u>
Preparation of this Report .....	1
General Information On Condominiums .....	2
Operation of the Condominium Project .....	2
1. THE CONDOMINIUM PROJECT .....	3
1.1 The Underlying Land .....	3
1.2 Buildings and Other Improvements .....	3
1.3 Unit Types and Sizes of Units .....	3
1.4 Parking Stalls .....	4
1.5 Boundaries of the Units .....	4
1.6 Permitted Alterations to the Units .....	4
1.7 Common Interest .....	4
1.8 Recreational and Other Common Facilities .....	4
1.9 Common Elements .....	5
1.10 Limited Common Elements .....	5
1.11 Special Use Restrictions .....	5
1.12 Encumbrances Against Title .....	5
1.13 Uses Permitted by Zoning and Zoning Compliance Matters .....	6
1.14 Other Zoning Compliance Matters .....	6
1.15 Conversions .....	7
1.16 Project In Agricultural District .....	8
1.17 Project with Assisted Living Facility .....	8
2. PERSONS CONNECTED WITH THE PROJECT .....	9
2.1 Developer .....	9
2.2 Real Estate Broker .....	9
2.3 Escrow Depository .....	9
2.4 General Contractor .....	9
2.5 Condominium Managing Agent .....	9
2.6 Attorney for Developer .....	9
3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS .....	10
3.1 Declaration of Condominium Property Regime .....	10
3.2 Bylaws of the Association of Unit Owners .....	10
3.3 Condominium Map .....	10
3.4 House Rules .....	11
3.5 Changes to the Condominium Documents .....	11
3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents .....	11
4. CONDOMINIUM MANAGEMENT .....	12
4.1 Management of the Common Elements .....	12
4.2 Estimate of the Initial Maintenance Fees .....	12
4.3 Utility Charges to be Included in the Maintenance Fee .....	12
4.4 Utilities to be Separately Billed to Unit Owner .....	12
5. SALES DOCUMENTS .....	13
5.1 Sales Documents Filed with the Real Estate Commission .....	13
5.2 Sales to Owner-Occupants .....	13
5.3 Blanket Liens .....	13
5.4 Construction Warranties .....	13
5.5 Status of Construction, Date of Completion or Estimated Date of Completion .....	14

5.6	Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance .....	14
	5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance .....	14
	5.6.2 Purchaser Deposits Will Be Disbursed Before Closing .....	14
5.7	Rights Under the Sales Contract .....	16
5.8	Purchaser's Right to Cancel or Rescind a Sales Contract .....	16
	5.8.1 Purchaser's 30-Day Right to Cancel a Sales Contract .....	16
	5.8.2 Right to Cancel a Sales Contract if Completion Deadline Missed .....	17
	5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change ..	17
6.	MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT .....	18
EXHIBIT A:	UNIT TYPES AND SIZES; ASSIGNED PARKING STALLS; COMMON INTERESTS	
EXHIBIT B:	BOUNDARIES OF THE UNITS	
EXHIBIT C:	PERMITTED ALTERATIONS	
EXHIBIT D:	COMMON ELEMENTS	
EXHIBIT E:	LIMITED COMMON ELEMENTS	
EXHIBIT F:	SPECIAL USE RESTRICTIONS	
EXHIBIT G:	ENCUMBRANCES	
EXHIBIT H:	OTHER ZONING COMPLIANCE MATTERS	
EXHIBIT I:	STRUCTURAL OBSERVANCE REPORT	
EXHIBIT J:	MECHANICAL DUE DILIGENCE REPORT	
EXHIBIT K:	ELECTRICAL DUE DILIGENCE REPORT	
EXHIBIT L:	CITY AND COUNTY LETTERS	
EXHIBIT M:	RESERVED RIGHTS	
EXHIBIT N:	OPERATING BUDGET	
EXHIBIT O:	SUMMARY OF SALES CONTRACT	
EXHIBIT P:	SUMMARY OF ESCROW AGREEMENT	

## **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	<b>Not applicable</b>	
Address of Project	<b>2551 Cartwright Road, Honolulu, Hawaii 96815</b>	
Address of Project is expected to change because	<b>Not applicable</b>	
Tax Map Key (TMK)	<b>(1) 2-6-027-027</b>	
Tax Map Key is expected to change because	<b>Not applicable</b>	
Land Area	<b>0.1148 acre (approximately 5,000 square feet)</b>	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	<b>Not applicable</b>	

### 1.2 Buildings and Other Improvements

Number of Buildings	<b>1</b>
Floors Per Building	<b>4</b>
Number of New Building(s)	<b>0</b>
Number of Converted Building(s)	<b>1</b>
Principal Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	<b>Concrete gypsum board, wood and aluminum and allied materials</b>

### 1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc.)	Area
See Exhibit <u>A</u>						

<b>16</b>	<b>Total Number of Units</b>
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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 Stalls in the Project:	8
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	See Exhibit A
Attach Exhibit <u>A</u> 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 M.	

**1.5 Boundaries of the Units**

Boundaries of the unit: See Exhibit B
--

**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): See Exhibit C
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**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 <u>A</u> .
As follows:

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

<input type="checkbox"/>	Swimming pool
<input checked="" 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): None

**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 D .

Described as follows:  
See Exhibit D

Common Element	Number
Elevators	0
Stairways	2
Trash Chutes	0

**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:  
See Exhibit E

**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 checked="" type="checkbox"/>	Pets
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: See Exhibit F
<input 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 G describes the encumbrances against title contained in the title report described below.

Date of the title report: April 11, 2008

Company that issued the title report: Fidelity National Title and Escrow 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		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Other(specify): Mixed Use	16	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Waikiki Special District/Resort Mixed Use Precinct
Is/Are this/these use(s) specifically permitted by the project's Declarations or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Describe any variances that have been granted to zoning code.			No variance from any ordinance, code, rule, regulation or other such other requirement in force at the time of the construction of the improvements or from any current ordinance, code, rule, regulation or other requirement has been granted in connection with the improvements, except for: (i) that certain Variance (File No. 1999/VAR-37), which was approved with conditions to allow (retain) fences and/or walls, which encroach into the required front yard, and eliminate required landscaping; and (ii) that certain Variance No. 2007-/VAR-41, which allowed a security fence and gate to encroach into the required front yard and to increase nonconformity, and which notes that the "lot area is less than the minimum lot area required for the precinct. The existing development exceeds the maximum density, encroaches into the required yard, and lacks the required landscaping and off-street parking." As a result of amendments to the Land Use Ordinance since the improvements in the Project were constructed, the Building and the number (8) of parking stalls are now considered to be legally nonconforming.	

**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</p>

situations such as those described above.

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.

	Conforming	Non-Conforming	Illegal
Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lot	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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:

See Exhibit H.

**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>  <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:          See Exhibits I, J and K.</p>	
<p>Developer's statement of the expected useful life of each item reported above:          In accordance with Section 514B-84(a)(1)(B), 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:          None. See Exhibit L.</p>	
<p>Estimated cost of curing any violations described above:  <b>Not applicable.</b></p>	

<p><b>Verified Statement from a County Official</b></p>
<p>Regarding any converted structures in the project, attached as Exhibit L 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 nonconforming 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>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>

**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>  <b>If answer is "Yes" provide information below.</b></p>	<p><input type="checkbox"/> Yes  <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>  <b>If answer is "Yes", complete information below.</b></p>	<p><input type="checkbox"/> Yes  <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: Cartwright Road Associates, LLC, a Hawaii limited liability company</p> <p>Business Address: 2551 Cartwright Road, Honolulu, Hawaii 96815</p> <p>Business Phone Number: 415-362-3660 E-mail Address: glf@ventureout.com</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>Manager: Diamond View Vacations LLC, a Hawaii limited liability company</p> <p>Sole Member: Diamond View Vacations LLC, a Hawaii limited liability company</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: Cliff Colvin, Coldwell Bankers Pacific Properties</p> <p>Business Address: 4211 Waialae Avenue, #9000 Honolulu, Hawaii 96816 Business Phone Number: (808) 381-6703 E-mail Address: cliff@cliffcolvin.com</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: Fidelity National Title &amp; Escrow of Hawaii, Inc., a Hawaii corporation Business Address: 201 Merchant Street, Suite 2100 Honolulu, Hawaii 96813 Business Phone Number: (808) 536-0404</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: Not applicable Business Address:  Business Phone Number:</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: The Developer will be the initial Managing Agent. The Association will eventually manage the Project or select a Managing Agent. Business Address: 2551 Cartwright Road Honolulu, Hawaii 96815  Business Phone Number: 415-362-3660</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: Phil Leas Business Address: 1000 Bishop Street, Suite 1200 Honolulu, Hawaii 96813  Business Phone Number: (808) 521-9200</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	April 1, 2008	2008-059819

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	September 12, 2008	2008-144402
Bureau of Conveyances	TO BE RECORDED	TO BE RECORDED

#### 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	April 1, 2008	2008-059820

#### Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	TO BE RECORDED	TO BE RECORDED

#### 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	4617
Dates of Recordation of Amendments to the Condominium Map:	

**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:  See Exhibit M and Exhibit F, ¶9.2

## 4. CONDOMINIUM MANAGEMENT

### 4.1 Management of the Common Elements

<p><b>Management of the Common Elements:</b> 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.</p>	
<p>The Initial Condominium Managing Agent for this project is (check one):</p>	
<input type="checkbox"/>	Not affiliated with the Developer
<input type="checkbox"/>	None (self-managed by the Association)
<input checked="" type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

### 4.2 Estimate of the Initial Maintenance Fees

<p><b>Estimate of the Initial Maintenance Fees:</b> 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.</p>
<p>Exhibit N 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.</p>

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

<p>If checked, the following utilities are included in the maintenance fee:</p>	
<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 (common elements)
<input type="checkbox"/>	Other (specify)

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

<p>If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:</p>	
<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 checked="" type="checkbox"/>	TV cable (for each unit)
<input type="checkbox"/>	Other (specify)

## 5. SALES DOCUMENTS

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

Sales Documents on file with the Commission include, but are not limited to, the following:	
<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit O 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: June 1, 2010 Name of Escrow Company: Fidelity National Title & Escrow of Hawaii, Inc. Exhibit P 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. 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	Purchaser may lose the right to buy the unit, but will receive refund of his/her deposit. This means, among other things, that if Developer defaults under the mortgage, the mortgagee may take over the Project, cancel the sales contracts and refund the Buyer's deposits, less escrow cancellation fees, and the Buyer shall have no further interest in the Project.

### 5.4 Construction Warranties

<b>Construction Warranties:</b> 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:
<b>Building and Other Improvements:</b> None.
<b>Appliances:</b> None.

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

Status of Construction: Building was constructed in 1965.
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.
Completion Deadline for any unit not yet constructed, as set forth in the sales contract: Not applicable.
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract: Not applicable.

**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. <b>Not applicable.</b></p> <p>If the box to the left is checked, Sections 5.6.2 and 5.7, which follow below, will not be applicable to the project.</p>
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**5.6.2 Purchaser Deposits Will Be Disbursed Before Closing**

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): **Not applicable.**

<input type="checkbox"/>	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
<input type="checkbox"/>	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.

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

<p><b>Box A</b> <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:</u></b> 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.</p>
<p><b>Box B</b> <input type="checkbox"/></p>	<p>The Developer has <b>not</b> 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

I 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**

(a) The Developer makes no representation that it will address all of the renovations recommended in the property reports attached hereto as Exhibits "I", "J" and "K". The Unit is sold "as is" as more specifically described in Exhibit O of this report. *The Buyer should take its time and review these reports.*

- (b) The Project is in the "Firm Zone X" flood zone (Low to Moderate Risk).
- (c) There exists an encroachment in the back of the Project by which the wall running along the boundary of the Project and Lot A encroaches into Lot A by approximately .46 feet. There is currently no encroachment agreement. If the owner of Lot A so requires, the Association or Developer may be required to remove the encroaching portions of the wall.
- (d) Purchasers will be required to deposit \$1000 towards the reserve fund which is to be distributed to the Association/Developer/Managing Agent strictly for the benefit of the Project after closing of the Unit.
- (e) 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 intelligent 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 hazards is recommended prior to purchase."

The Developer declares subject to the penalties set forth in Section 514B-69, HRS that this project continues to conform to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a) (13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report as amended, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report as amended, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report as amended and the exhibits attached to this report (if any) as amended and all documents to be furnished by the Developer to purchasers 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. The Developer hereby agrees promptly to amend this report as amended to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report as amended at least 30 days prior to the anniversary date of the effective date of this report.

CARTWRIGHT ROAD ASSOCIATES, LLC

Printed Name of Developer

By: Diamond View Vacations LLC,  
a Hawaii limited liability company  
Its Manager

By

Duly Authorized Signatory\*

June 1, 2010

Date

G. Lee FitzGerald, Manager

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

**\*Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at (808) 586-2643 to submit your request.*

**EXHIBIT A**

**UNIT TYPES AND SIZES; ASSIGNED PARKING STALLS; COMMON INTERESTS**

<b>Unit No.</b>	<b>Type</b>	<b>No. of Bathrooms</b>	<b>Net Living Area S.F.</b>	<b>Net Lanai Area S.F.</b>	<b>Assigned Parking Stalls</b>	<b>Common Interest</b>
101	Studio	1	157		P1, P2, P3, P4, P5, P6, P7, P8	10%
201	1 Bedroom	1	365	53		6%
202	1 Bedroom	1	365	59		6%
203	1 Bedroom	1	365	58		6%
204	1 Bedroom	1	365	58		6%
205	1 Bedroom	1	365	53		6%
301	1 Bedroom	1	365	53		6%
302	1 Bedroom	1	365	59		6%
303	1 Bedroom	1	365	58		6%
304	1 Bedroom	1	365	58		6%
305	1 Bedroom	1	365	53		6%
401	1 Bedroom	1	365	53		6%
402	1 Bedroom	1	365	59		6%
403	1 Bedroom	1	365	58		6%
404	1 Bedroom	1	365	58		6%
405	1 Bedroom	1	365	53		6%

**EXHIBIT B**

**BOUNDARIES OF THE UNITS**

The boundaries of the Units are as follows:

<b>(A) General Common Element</b>	<b>(B) Limited Common Element, appurtenant only to the Unit</b>	<b>(C) Included in the Unit</b>
(i) the unfinished perimeter or party walls, floors and ceilings surrounding the Unit	(i) perimeter doors and door frames, lanai doors and door frames, windows, window frames, screens and all hardware associated with them	(i) all of the walls and partitions which are not load-bearing within the Unit's perimeter or party walls
(ii) any interior load-bearing walls and columns	(ii) the lanai railing	(ii) all paneling, tiles, wallpaper, paint, finished flooring, and any other materials that form any part of the inner decorated or finished surfaces of the elements in column (A) (i) (ii), (iii) and (iv), (B) (i) and (C) (i) and (iii).
(iii) any chute, flue, duct, wire, conduit, pumps and other utility or service line (a " <b>Conduit</b> ") which is utilized for or serves more than one Unit even though it lies partially within and partially outside the boundaries of a Unit	(ii) any portion of a Conduit or other fixture that serves only one Unit even though it lies partially within and partially outside the boundaries of that Unit	
(iv) the structure including unfinished floor, ceiling, walls and railings of any lanai that is part of the Unit		

## EXHIBIT C

### PERMITTED ALTERATIONS

The following are referenced sections from that certain Declaration of Condominium Property Regime of "The Cabana at Waikiki," dated April 1, 2008, recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2008-059819.

#### **20. ALTERATION OF PROJECT**

20.1 **Generally.** Except as otherwise provided in this Declaration or the Act or as otherwise required by law, neither the Association nor any Unit Owner shall perform any of the following acts except pursuant to plans and specifications therefor approved in writing by the Board or Developer:

20.1.1 repairing, replacing or rebuilding any Unit or any of the Common Elements and Limited Common Elements in a manner different in any material respect from the Condominium Map;

20.1.2 engaging in any alterations which will affect the structural integrity of any Unit or the Common Elements and Limited Common Elements; or

20.1.3 constructing on the Common Elements and Limited Common Elements any new building or structure.

Upon the completion of any such work, there shall be filed with the Board a final "as built" set of the plans and specifications for such work, and if any such work should constitute a material alteration to the Project as shown on the Condominium Map (as determined by the Board), the Association or Unit Owner, as the case may be, shall file an amendment to this Declaration describing such alteration and amending the Condominium Map to show such alteration, together with a certificate signed by a registered architect and engineer, certifying that the plans showing such alterations accurately reflect such alterations, as built. Such amendment shall be signed by the Association or the Unit Owner, as the case may be, and approved by the Board or Developer, and no consent or joinder of any other Unit Owner or person shall be required.

20.2 **Certain Work Prohibited.** Notwithstanding anything to the contrary in this Declaration, no Unit Owners shall, without in every such case obtaining the prior consent of the Board, as well as sixty-seven percent (67%) of the Unit Owners, together with the prior written consent of all mortgagees of record and Unit Owners whose Units or Limited Common Elements appurtenant thereto are directly affected: (a) do any work which could jeopardize the soundness or safety of the Project, reduce the value thereof, impair any easement, as reasonably determined by the Board, (b) add any material structure or excavate any basement or cellar, (c) rebuild, repair or restore the Project in the event of substantial or total destruction of the Project,

#### **20.3 Connection between Units.**

20.3.1 Owner of any two or more adjacent Units separated by a Common Element which is a wall may, with the consent of the Board (or Developer) and all mortgagees of record of any interest in such Owner's Units, alter or remove all or portions of the intervening wall (and, if the Owner so desires, install a door within the opening created by such removal), if the structural integrity of the Common Elements or any other Unit in the Project will not thereby be adversely affected and if the finish of the Common Element then remaining is placed in a condition substantially comparable to that of the Common Element prior to such alterations.

20.3.2 Prior to commencing any such alteration or removal, the Unit Owner shall provide to the Board (i) a certification in form and content reasonably satisfactory to the Board signed by a duly registered Hawaii architect or engineer, that such alteration or removal will not adversely affect the structural integrity of the Project or any other Unit in the Project, (ii) satisfactory evidence that all governmental approvals required for such alteration or removal have been duly obtained, and (iii) if the cost of such alteration or removal, as reasonably determined by the Board, should exceed the sum of \$25,000 (increased from time to time at the rate of 3% per annum since 2008), the Board may require that the Owner provide evidence satisfactory to the Board of sufficient financing to complete such alteration or removal or, in lieu thereof, require that the Owner obtain a performance and lien payment bond, naming as obligees the Board and the Association and collectively all Unit Owners and their respective mortgagees of record, as their interests may appear, for a penal sum of not less than one hundred percent (100%) of the estimated cost of such alteration or removal.

20.3.3 If any intervening wall between adjacent Units shall have been altered or removed pursuant to the foregoing provisions, then prior to the termination of the common ownership of such adjacent Units, the Owner of such Units shall restore such intervening wall to substantially the same condition in which the same existed prior to such alteration or removal unless the purchaser of such Units shall agree in writing to forgo such restoration.

20.3.4 Notwithstanding any alteration or additions permitted under this Paragraph 20.3, such shall not affect the Common Interest or Limited Common Interest allocable to any Unit.

20.4 **Alterations within Units.** Notwithstanding any provision in this Declaration to the contrary, alterations (including the enclosure) of a lanai portion of a Unit; or any other alteration within a Unit shall require the written consent and approval by the Owner of the Unit making such change and by the holders of any recorded mortgages affecting such Unit (if the recorded mortgage holder requires such consent and approval); provided, however, that any such alteration or change (the "change"), unless made by the Developer, shall be subject to the following conditions:

20.4.1 All building plans for any such change shall be prepared by a licensed architect or professional engineer; shall conform with City and County of Honolulu building codes, Land Use Ordinance and other applicable County Ordinances; and a copy thereof shall be furnished such be furnished to the Developer or Board in advance of such change being made;

20.4.2 any change shall not jeopardize the soundness or safety of the Project, impair any easement or other benefit of the Project; or overutilize electrical, plumbing or other utility servicing the Project;

20.4.3 the Unit Owner making such change shall obtain a building permit for such change, if such permit is required under the Land Use Ordinance, and shall provide a copy thereof to the Board;

20.4.4 During the entire course of the making of such change, the Unit Owner making such change shall cause to be maintained at his expense builder's all risk insurance in an amount net less than the estimated cost of such construction, and such insurance shall name the Association as an additional insured;

20.4.5 The Unit Owner making such change shall indemnify and hold harmless the Developer, Board, Association and the other Unit Owners in the Project from any loss, liability, damage or expense arising out of or connected in any way with the making of such change.

20.4.6 Upon completion of such change, the Unit Owner making such change shall have the right without the consent or joinder of any other person (including the Board or the Association) to amend this Declaration and the Condominium Map to reflect the changes made to the Unit in accordance with this Paragraph 20, and promptly upon completion of such change, the Unit Owner making such change shall duly record with the Bureau an amendment to this Declaration and to the Condominium Map indicating such changes to the Project and shall provide to the Board a copy of such required amendment.

20.4.7 In the case of a change which is an alteration (including the enclosure) of a lanai portion of a Unit, all such changes shall be made so that the appearance of the lanai or the enclosure as changed shall be substantially similar and uniform to the appearance of the other lanais or exterior portions of the Project, and shall be subject to the prior written approval of the Board or the Developer.

**EXHIBIT D**

**COMMON ELEMENTS**

4. **COMMON ELEMENTS.** One freehold estate is hereby designated in all of the Common Elements, including specifically, but not limited to the following:

4.1 The Land in fee simple;

4.2 All foundations, columns, girders, beams, supports, perimeter walls, lanai railings, load-bearing walls, roofs, exterior stairs and stairways, breezeways, landings, pumps, ducts, pipes, wires, conduits, or other utility or service lines located outside of the Units, and generally all equipment, apparatus, installations and personal property existing for common use in the Building or located on the Land;

4.3 All stairways, elevator(s), if any (together with equipment areas and the equipment used in connection with such elevator), corridors, lobby areas, ramps, entrances, entries and exits of the Building, and all storage areas, laundry areas, or trash container rooms not located within a Unit;

4.4 All driveways and other common ways, all parking and loading spaces, all gates and kiosks or gatehouses (if any) at the entryway to the Project, all landscaping, courtyards, fences, gates, retaining walls, trash areas, maintenance structures and facilities and accessory equipment areas, including electrical and mechanical rooms or facilities located on the Land or within the Building and serving more than one Unit;

4.5 All fences (if any), trellises, and mail boxes;

4.6 All yards, grounds, planting areas, planters, walkways, walkway railings, landscaping, waterscape areas, gardens, recreation decks, laundry area and equipment therein, any toilet and restroom facilities and recreational facilities (including any Jacuzzi-type facilities) and appurtenances not located within a Unit, and located on the Land;

4.7 All ducts, vents, shafts, utility lines, conduits, sewage treatment and refuse equipment and facilities (if any), mechanical equipment, electrical equipment, telephone equipment, pipes, tanks, pumps, motors, fans, compressors, wiring 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 (if any), temperature control, fire safety, sanitary waste, cablevision (if any), sewer, refuse, telephone, and radio and television signal distribution, and any rooms or other enclosures in which such foregoing facilities are housed;

4.8 Trash enclosure, propane tank and all other apparatus and installations necessary or convenient to the Project's existence, maintenance or safety, or normally in common use; and

4.9 All other portions of the Project not designated as a Unit.

**EXHIBIT E**

**LIMITED COMMON ELEMENTS**

5. **LIMITED COMMON ELEMENTS.** Certain parts of the Common Elements, called the Limited Common Elements, are hereby designated and set aside for the exclusive use of certain Units, and each such designated Unit shall have appurtenant thereto exclusive easements for the use of the Limited Common Elements set aside and reserved for such designated Unit's exclusive use. Unless otherwise specified, all costs of every kind pertaining to each Limited Common Element, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne by the Owner of the Unit to which said Limited Common Element is appurtenant. The Limited Common Elements to set aside and reserve are as follows:

5.1 All pipes, wires, ducts, conduits or other utility or service lines located within or running through the Unit and utilized by or serving only that Unit;

5.2 Subject to Section 3.4 of this Declaration, all eight (8) parking stall(s) shown on the Condominium Map shall be a Limited Common Element appurtenant to Unit 101;

5.3 The storage area, which is located under the ground floor stairway, and which is identified on the Condominium Map as a Limited Common Element, shall be appurtenant to Unit 101.

5.4 All areas identified in this Declaration as Limited Common Elements, including but not limited to Section 3.2.5 of the Declaration. See Exhibit B.

## EXHIBIT F

### SPECIAL USE RESTRICTIONS

9.2 **Timeshare, Fractional or Vacation Club Uses.** NO MATTER WHAT ELSE THIS DECLARATION SAYS, PLANS CREATED IN ACCORDANCE WITH CHAPTER 514-E OF THE HAWAII REVISED STATUTES, AS AMENDED, AND THE ADMINISTRATIVE RULES PROMULGATED UNDER CHAPTER 514-E OR UNDER OTHER LAWS THAT ARE NOW OR MAY LATER BECOME APPLICABLE, AND FRACTIONAL OR VACATION CLUB USES WHICH ARE EXEMPT FROM 514E BECAUSE OF THE LENGTH OF USE, ARE EXPRESSLY PERMITTED IN THE PROJECT, BUT ONLY IF EXPRESSLY CREATED BY THE DEVELOPER OR AN AFFILIATE OF THE DEVELOPER IN ACCORDANCE WITH A CLUB OR TIMESHARE DECLARATION. NO OTHER PERSON OR ENTITY SHALL HAVE THE RIGHT TO CREATE PLANS IN ACCORDANCE WITH CHAPTER 514E OR FRACTIONAL OR VACATION CLUB USES IN THE PROJECT.

9.3 **Uses Increasing Hazard.** No Unit or Limited Common Element appurtenant thereto shall be used in any manner or for any purpose which (i) hinders normal and reasonable ingress to and egress from any other Unit or the stairways, corridors or other access ways leading thereto; (ii) creates or may create a hazard or potential hazard to other residents of the Project; (iii) increases the hazard or liability insurance premiums for the Project; (iv) impairs or may impair the structural integrity of any Common Elements (including Limited Common Elements) of the Project; (v) creates or causes noise, vibrations, noxious odors or other nuisances which are detectable from outside of the Unit and the Limited Common Elements appurtenant thereto; or (vi) is illegal or otherwise violates any applicable federal, state or local law, ordinance, rule, regulation or other restriction.

9.5 **Parking.** Vehicular access to and egress from each parking stall in the Project, shall be subject to such entry and exit system and rules as may be established by the Owner of Unit 101. Such entry and exit systems may, without limitation, include the use of gate cards and/or parking stickers in order to gain access to or egress from the parking stalls or access to or exit from other parking facilities. Each user of a parking stall shall at all times comply with such entry and exit system and rules from time to time established by the Owner of Unit 101.

9.6 **Signage.** The Owner of any Unit shall not, without the prior written consent of the Board, display any sign or place any other thing in or upon any doors, windows, walls or other portions of the Unit or the Common Elements so as to be visible from the exterior, provided, however, that this restriction shall not apply to signs displayed by the Developer for sales purposes prior to the completion of sales of all Units in the Project.

**EXHIBIT G**  
**ENCUMBRANCES**

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Setback (10 feet wide) for road widening purposes, along Cartwright Road, as shown on surveyor's map dated February 8, 1985, prepared by James R. Thompson, Registered Professional Land Surveyor.
3. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document;  
  
In favor of: Oceanic Cable, a division of Time Warner Entertainment Co., L.P., a Delaware limited partnership  
Purpose: cable, wires and incidental purposes  
Recorded: January 26, 1996, in the Bureau of Conveyances of the State of Hawaii, Document No. 96-011299, dated January 18, 1996.  
Affects: granting an easement for cable, wire and incidental purposes over, under, across and through a portion of the land herein described

4. A mortgage to secure an indebtedness as shown below, and any other obligations secured thereby  
  
Amount: \$1,600,000.00  
Dated: May 21, 2008  
Mortgagor: Cartwright Road Associates, LLC, a Hawaii limited liability company  
Mortgagee: First Hawaiian Bank, a Hawaii corporation  
Recorded: May 30, 2003, in the Bureau of Conveyances of the State of Hawaii, Document No. 2008-088135.

5. A Short Form Lease  
  
Lessor: Venture Out Properties, LLC, a California limited liability company  
Lessee: Venture Out, a California corporation  
Recorded: Document No. 2003-088268  
Term: ending April 30, 2008

The foregoing Short Form Lease was assigned by the following:

Unrecorded Assignment of Lease

Assignor: Venture Out, a California corporation  
Assignee: Cabana at Waikiki, LLC, a Hawaii limited liability company  
Dated: October 30, 2004

Said Short Form Lease was amended by Unrecorded Extension of Lease dated February 29, 2008. Re: Term is extended to expired on April 30, 2009 and will automatically extend for additional one year periods absent a sixty (60) day written notice from either party prior to the end of each such lease term.

By the provisions of an agreement

Dated: May 27, 2008  
Executed by: Cartwright Road Associates, LLC, a Hawaii limited liability company, The Cabana at Waikiki LLC, a Hawaii limited liability company, and Venture Out Properties, LLC, a California limited liability company  
Recorded: May 30, 2008, in the Bureau of Conveyances of the State of Hawaii, Document No. 2008-088138.

Said instrument was made subordinate to the lien of the document or interest shown as item No. 5.

7. Absolute Assignment of Rentals and Lessor's Interest in Leases

Dated: May 21, 2008  
Assignor: Cartwright Road Associates, LLC, a limited liability company  
Assignee: First Hawaiian Bank, a Hawaii corporation  
Recorded: May 30, 2008 in the Bureau of Conveyances of the State of Hawaii, Document No. 2008-088136  
Re: Assignment of Assignor's interest in and to any Leases, Subleases and Tenancy Agreements as security for the repayment of \$1,600,000.00.

8. Any and all unrecorded Leases, Subleases and Tenancy Agreements demising a portion of the land herein described, and encumbrances appurtenant thereto, if any.

Note: The Units will be conveyed and title policy will be issued not subject to any of these unrecorded agreements, unless Developer and Purchaser agree otherwise.

9. Any claims for mechanics' liens that may be recorded by reason of a recent work of improvement under construction and/or completed at the date hereof.

Note: The Units will be conveyed and title policy will be issued not subject to any of these liens, unless Developer and Purchaser agree otherwise.

10. Condominium Map No. 4617, recorded in the Bureau of Conveyances of the State of Hawaii.

11. Covenants, conditions, and restrictions (deleting therefrom any restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin) as contained in the following:

Declaration of Condominium Property Regime of "THE CABANA OF WAIKIKI"

Dated: April 1, 2008  
Recorded: April 16, 2008 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2008-059819, as may have been or may hereafter be amended.

12. By-Laws of the Association of Apartment Owners of "THE CABANA OF WAIKIKI", dated April 1, 2008, recorded April 16, 2008 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2008-059820, as may have been or may hereafter be amended.

13. The following qualifying language applies to any and all covenants, conditions and restrictions (CC&R'S) set forth in the numbered items above:

But omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

14. Upon conveyance of any apartment Unit(s), said Apartment shall become subject to the following:

a) Terms, provisions and conditions as contained in the Original Apartment Deed (from the Developer to the Buyer) and the effect of any failure to comply with such terms, provisions and conditions.

b) Any and all easements encumbering the apartment herein mentioned, and/or the common interest apartment thereto, as created by or mentioned in said Declaration, as said Declaration may be amended from time to time in accordance with the law and/or in the Original Apartment Deed, and/or as delineated on said Condominium Map.

## EXHIBIT H

### OTHER ZONING COMPLIANCE MATTERS

A. Section 1.14: Other Zoning Compliance Matters.

1. Nonconforming Lots. Pursuant to Section 21-4.110(a):
  - a. A nonconforming lot shall not be reduced in area, width or depth, except by government action to further the public health, safety or welfare.
  - b. Any conforming structure or use may be constructed, enlarged, extended or moved on a nonconforming lot as long as all other requirements of the Land Use Ordinance are met.
  
2. Nonconforming Structures. Pursuant to Section 21-4.110(b):
  - a. If that portion of a structure which is nonconforming is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Land Use Ordinance.
    - (1) Notwithstanding the foregoing provision, a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of HRS Chapter 514A or 421H, or units owned by a "cooperative housing corporation" as defined in HRS Section 4211-1, whether or not the structure is located in a special district, and which is destroyed by accidental means, including destruction by fire, hurricane, other calamity, or act of God, may be restored to its former condition, provided that such restoration is permitted by the building code and flood hazard regulations and is started within two years.
    - (2) The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner.
    - (3) Except as otherwise provided in this section, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of the Land Use Ordinance.
  - b. If a nonconforming structure is moved, it shall conform to the provisions of the Land Use Ordinance.
  - c. Any nonconforming structure may be repaired, expanded or altered in any manner which does not increase its nonconformity.
  - d. Improvements on private property, which become nonconforming through the exercise of government's power of eminent domain, may obtain waivers from the

provisions of this subsection, as provided by Section 21-2.130.

- e. Nonconforming commercial use density shall be regulated under the provisions of this subsection. For purposes of this section, "nonconforming commercial use density" means a structure which is nonconforming by virtue of the previously lawful mixture of commercial uses on a zoning lot affected by commercial use density requirements in excess of:
  - (1) The maximum FAR permitted for commercial uses; or
  - (2) The maximum percentage of total floor area permitted for commercial uses.

**EXHIBIT I**  
**STRUCTURAL REPORT**

**Ben F. S. Hung**  
Structural Consultant  
1145 Kaunoku Street  
Honolulu, Hawaii 96825  
TEL: (808)387-8095  
E-Mail: bhung51@yahoo.com

February 23, 2008

CABANA AT WAKIKI  
2551 Cartwright Road  
Honolulu, Hawaii 96815

**STRUCTURAL OBSERVATION REPORT**

**General**

This is an observation report on the subject building at the above address. The purpose of this observation is to review the general conformation of the building structural framing and lateral resisting system. Because there are no existing drawings available, our level of the on-site observation can only detect the problems based on the existing condition and 1997 Uniform Building Code (UBC).

**Building Vertical Supporting System**

The building is a 4-story conventional apartment structure with an approximate dimensions of 27' (Width) x 75' (Length) x 34' (Height). Basically, the ground floor has parking stalls, office and 2 stair wells. 2<sup>nd</sup> floor has 5 apartment units with masonry demising walls between units. 3<sup>rd</sup> and 4<sup>th</sup> floors are similar to 2<sup>nd</sup> floor.

The 2<sup>nd</sup> floor diaphragm structure consists of several approximate 5 1/2" deep modules of concrete planks spanned 27' long. The floor planks are supported on the approximate 16"x16" concrete beams spanned between concrete columns along longitudinal direction on both sides of the building. The concrete columns are approximate 10" x 16" and spaced 14'10" apart. There are 6 concrete columns on each side of the building, total of 12 concrete columns. All the demising walls are supported on the planks in lieu of on the concrete beams. 3<sup>rd</sup> floor, 4<sup>th</sup> floor, and roof structures are similar to the 2<sup>nd</sup> floor structure.

Overall, no structural sagging was observed. However, A couple of steel rusting on the connection of the railing posts to concrete slabs were found at the 2<sup>nd</sup> floor lanai (See Attachment #1). A steel rusting and concrete spalling was also found at the bottom side of the 2<sup>nd</sup> floor stair landing near entry (See Attachment #2). Steel rusting was also noticed at the bottom side of the 2<sup>nd</sup> floor stair landing near rear of the building (See Attachment #3)

**Building Lateral Force Resisting System for Wind and Seismic Loads**

1. **Longitudinal Direction**

At the ground floor, the lateral resisting elements are office walls and stair well walls. At the 2<sup>nd</sup> to 4<sup>th</sup> floors, the lateral resisting elements are small wall piers between the door/window openings. These wall piers are approximate 1'-4", 3'-6" and 5'-6" wide.

1 of 2

**Ben F. S. Hung**  
Structural Consultant  
1145 Kaumoku Street  
Honolulu, Hawaii 96825  
TEL: (808)387-8095  
E-Mail: bhung51@yahoo.com

2. Transverse Direction

At the ground floor, the lateral resisting elements are office walls. At the 2<sup>nd</sup> to 4<sup>th</sup> floors, the lateral force resisting elements are demising walls and the building end walls.

We believe that this building was conventionally designed using concrete beams and columns to support the vertical loads only, and lateral force resisting system was not clearly defined according to UBC. There are 4 main lateral force resisting systems described in UBC (See Attachment #4). We believe that the lateral force resisting system of this building is undefined.

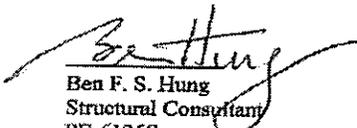
Summary

Base on the above finding, our suggestions are listed as follows:

1. The structural drawings of the building shall be established and compiled for record. This building was constructed with reinforced concrete and masonry. Their capacities depend on the steel reinforcement content and concrete strength. Without knowing the concrete and masonry steel reinforcement contents and their details, the structural capacity can not be determined.
2. Steel rusting and concrete spaling shall be removed and repaired. The corrosive steel rusting will deteriorate the bonding of the concrete and steel reinforcement, and the concrete structures will be damaged.
3. Lateral force resisting system of this building shall be studied for the safety reason. It seems that 1'-4" and 3'-6" wall piers may not be enough for lateral resistance at lower floors in the longitudinal direction.

Also, lots of the masonry walls are not continuous down to the ground. Because of the walls discontinuity, the lateral force resisting system of this building is classified as undefined system.

Sincerely,

  
Ben F. S. Hung  
Structural Consultant  
PE-6126S

2 of 2

**EXHIBIT J**  
**MECHANICAL DUE DILIGENT REPORT**

**THE CABANA at WAIKIKI**

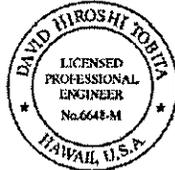
2551 CARTWRIGHT ROAD  
HONOLULU, HAWAII 96815

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**MECHANICAL DUE DILIGENCE REPORT**

May 19, 2005  
Update: February 15, 2008

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*David H. Tobita*

PREPARED BY:

David H. Tobita, P.E.  
DHT Engineering, Inc.  
600 Kapiolani Blvd., Suite 210  
Honolulu, Hawaii 96813

THE CABANA AT WAIKIKI  
2551 Cartwright Road  
Honolulu, Hawaii

Mechanical Systems Assessment  
May 3, 2005  
Update: Feb. 15, 2008

I. General:

- A. The following report covers our walk-through observation of the mechanical systems of the 4-story building located at 2551 Cartwright Road. The walk-through was conducted on April 18, 2005 and February 15, 2008. The ground and second floor units were made available for access. Attention has been given to determine operational condition and code conformance.
- B. The building is a four story hotel building. The ground floor is occupied by a parking area, front desk and office, laundry area, and spa/jacuzzi. The second through fourth floors are the hotel rooms with five rooms per floor.

II. Plumbing:

- A. The property is served by one 2-inch water meter. This meter provides water for both the domestic water and the wetstandpipe systems. Meter size is appropriate for the building demands.
- B. The domestic water piping is copper. Visible portions of the piping at the ground floor appeared to be in good condition.
- C. Sanitary waste piping is cast iron. Visible portions of the piping at the ground floor was painted and appeared to be in good condition with no sign of corrosion.
- D. The ground floor office has a toilet room which appeared to be in good condition. Plumbing fixtures (water closet and lavatory) are in good condition.
- E. The ground floor laundry plumbing appears to be in good condition and in accordance with local codes. Piping shows no sign of excessive corrosion.
- F. Hotel units:
  - 1. Water closet, lavatory, and shower appear to be in good condition. The water closet and lavatory appear to be low flow type fixtures (1.6 gallons per flush water closet, 2.0 gpm lavatory faucet).
  - 2. Sink and garbage disposer appear to be in good condition. Electrical

connection for garbage disposer does not appear to comply with electrical codes. Refer to electrical report for more detailed information.

3. A 40 gallon, 4500 watt water heater is located at the back lanai, adjacent to the bathroom. Several of the water pipe connections to the water heater were corroded and in need of replacement.

III. Fire Protection:

- A. The building is provided with both a drystandpipe and wetstandpipe system.
- B. Drystandpipe: The fire department connection is located at the ground floor with hose valves appropriately located at each of the floors and at the roof. Piping is galvanized steel which is painted and appears to be in good condition. The drystandpipe system was last tested in Aug. 2003. Dry standpipe systems require a flow test every five years so the system appears to be in compliance.
- C. Wetstandpipe: The wetstandpipe piping is painted galvanized steel which appeared to be well maintained and showed no sign of corrosion. A fire hose cabinet with fire extinguisher is located at each of the floors and appears to be in compliance with the local codes. The wetstandpipe system was last tested in May 2007. Wet standpipe systems require a flow test every five years so the system appears to be in compliance.

IV. Air Conditioning and Ventilation:

- A. Air conditioning is provided for the ground floor office via a window type air conditioning unit. The air conditioning unit appeared to be in good working condition.
- B. All the hotel units are provided with air conditioning via window mounted air conditioning units. The air conditioning units in Units 202 to 205 appear to be new and are in good working condition. The air conditioning unit for Unit 201 is an older model which appeared to be in good condition.
- C. The toilet rooms are provided with an adequate sized window so mechanical ventilation is not required.

V. Summary:

- A. Plumbing system in general appears to be in good condition. Piping which was visible did not show extensive amount of corrosion. Corrosion present at water heater inlet piping.

The Cabana at Waikiki  
February 15, 2008  
Page 3

- B. Dry standpipe and wet standpipe systems appear to be in good condition.  
Annual inspection of wet standpipe system needs to be confirmed.
- C. The air conditioning system appears to be in good condition.

**EXHIBIT K**

**ELECTRICAL DUE DILIGENCE REPORT**

**THE CABANA at WAIKIKI**

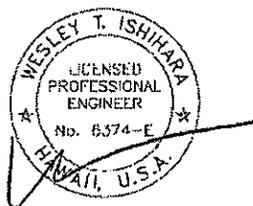
2551 CARTWRIGHT ROAD  
HONOLULU, HAWAII 96815

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**ELECTRICAL DUDILIGENCE REPORT**

February, 2008

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**PREPARED BY:**

Wesley T. Ishihara, P.E.  
Conference Technology Hawaii, Inc.  
2742 Manoa Road  
Honolulu, Hawaii 96822

THE CABANA at WAIKIKI  
2551 Cart Wright Road  
Honolulu, Hawaii

Electrical Systems Assessment  
February, 2008

- I. General:
  - A. The Building is a four-story concrete structure with ground level parking, 15 suites, and a building manager's office.
  - B. The building was constructed in 1966. A majority of the electrical distribution systems are of original vintage, and show signs of aging. A typical useful life of electrical distribution equipment is approximately 20 to 30 years, and it is highly recommended that the major electrical distribution equipment be replaced or upgraded.
- II. HECO Service:
  - A. HECO provides an underground primary feeder to a 37 kVA pad-mounted transformer, and 120/240 volts/ 1-phase/ 3-wire secondary service lateral to the main service entrance disconnect switch. The fuse size in the main disconnect switch could not be verified, but was estimated to be 200 amps.
  - B. The main service disconnect switch feeds fifteen (15) tenant meters and one (1) house meter. Each meter is equipped with a 2P70A circuit breaker to feed a panelboard in each unit, and a 2P100A circuit breaker for the house panels.
  - C. The main service disconnect switch and HECO meters are located on the wall adjacent to the building manager's office.
- III. Telephone Service:
  - A. Verizon Hawaii provides an underground service to a telephone cabinet located adjacent to the building manager's office.
  - B. A telephone switch is located in the manager's office. Each unit is provided with a minimum of two telephone outlets.
- IV. Oceanic Cable Service:
  - A. Cable TV service is provided overhead from a utility pole on Cart Wright Road to the roof top and terminated in a CATV cabinet, located at the covered walkway on the fourth floor.
  - B. Each unit is provided with at least one CATV outlet.

V. Manual Fire Alarm System:

- A. The existing manual fire alarm system consists of the main control panel by the service equipment, pull stations located at the middle of the covered walkway on each floor level, and bells on the first and third floor.
- B. The manual fire alarm system appears to be of original vintage, and is presently disabled.
- C. Each unit is provided with a stand alone smoke detector in the living room and sleeping room, respectively.

VI. Typical Unit:

- A. A panelboard is located in a storage closet; this is not allowed under the latest Code. The panelboard is served from a HECO meter with three #2 AWG aluminum conductors, which has a rated capacity of 90 amps. The feeder conduit is used as the equipment ground. However, no grounding jumpers were observed at the conduit terminations to maintain a continuous grounding path.
- B. The panelboard in a typical unit serves the following loads; Electrical Water Heater (2P50A), Range (2P30A), Window A/C (1P20A), lighting and receptacle circuits (three 1P20A).
- C. An adequate number of duplex receptacles is not provided in the Living Room and Kitchen Area.
- D. The power cord for a lamp stand in the Living Room is tucked under the carpet or baseboard, which is a violation of the Code.
- E. The power connection to the garbage disposal unit is spliced under the sink without an outlet box, which is a violation of the Code.
- F. Luminaires, ceiling fan, switches, and devices appear to be in good working condition.
- G. GFCI type duplex receptacles are provided in the Kitchen and Bathroom as required.
- H. Selected units are provided with data outlets for high speed internet connectivity.

VII. Common Areas:

- A. There appears to be adequate lighting for the covered walkways, stairwells, and parking area. Additional flood lights are provided in the parking area for security.

- B. Fire alarm bells and pull stations are physically in fair condition, but do not appear to be functional.

VIII. Major Code Issues:

- A. There are sewer pipes over the main electrical service equipment. All electrical equipment should be protected from possible damage due to failure in mechanical pipes .
- B. The manual fire alarm system is an obsolete model and no longer repairable. It should be completely replaced or removed since it is not a required system for this type of building.
- C. The panelboard in a typical unit should be replaced with an adequate number of circuit breakers and the required working clearance.
- D. Provide grounding jumpers for the tenant feeders to ensure proper grounding of the distribution system.

IX. Recommended Improvements:

- A. The existing HEC0 transformer is rated 37 kVA. The current demand for the building ranges from 31 kVA to 42 kVA, and already exceeds the service capacity. It is strongly recommended that the existing HEC0 service be upgraded and the main service entrance disconnect switch be replaced. Work should also include replacing the circuit breakers at each meter to ensure proper coordination and protection. Unless the present electrical loads are reduced by switching the electrical water heater to gas, or by removing the window A/C units, this service upgrade must be implemented to ensure the safety and reliability of the electrical service to the building.
- B. Additional receptacles should be provided in the Living Room and Kitchen areas.

# CALCULATIONS

**TYPICAL UNIT ELECTRICAL LOAD CALCULATION**  
(A/C and Range option)

Unit Type:	A		
Total Square Feet:	365 sf		
General Lighting	@ 3 watts per square foot =	1095 Watts	
Kitchen Appliance	@ 2 Each, 1500 Watts	3000 Watts	
Laundry Circuit		0 Watts	
	<b>Total</b>	<b>4095 Watts</b>	
First	3000 Watts @ 100%	3000 Watts	
Next	1095 Watts @ 35%	383.25 Watts	
	<b>Subtotal</b>	<b>3383.3 Watts</b>	
Range	3650 Watts @ 80%	2920 Watts	
Electric Water Heater		2600 Watts	
Spill A/C Unit		8000 Watts	
	<b>Subtotal</b>	<b>11420 Watts</b>	
	<b>Subtotal</b>	<b>14803 Watts</b>	
Net computed load for 100/200-V 3-wire, single phase feeder			
Amps =	14803.25 Watts / 240 Volts =	62 Amps	
Calculation for neutral sizing			
Lighting and small appliance net load		3383.3 Watts	
Range:	2920 Watts @ 70%	2044 Watts	
Dryer:	0 Watts @ 70%	0 Watts	
	<b>Total</b>	<b>5427.3 Watts</b>	
Amps =	5427.25 Watts / 240 Volts =	23 Amps	

**MINIMUM SIZE FEEDER REQUIRED FROM SERVICE EQUIPMENT FOR 16 UNITS**

Total Computed Load:  
Lighting and Small Appliance Load  
16 Unit x 4095 Watts = 65520 Watts

EWB and A/C Load  
16 Unit x 6500 Watts = 104000 Watts

Range Load  
16 Unit x 3650 Watts = 58400 Watts  
Net Computed Load (16 units) 259920 Watts

Net Computed Load Using Optional Calculation  
259920 Watts x 39 % = 101368.8 Watts or 101.4 KVA  
101369 Watts / 240 Volt = 422.37 Amps

**Note:**  
This calculation shows that the overall impact on the existing HECo service by additions of A/C unit and Electric Range in each Unit. It requires 2.7 times larger service capacity than the existing one.

**TYPICAL UNIT ELECTRICAL LOAD CALCULATION**

(Range only option)

Unit Type: A			
Total Square Feet:	385 sf		
General Lighting	@ 3 watts per square foot =	1095 Watts	
Kitchen Appliance	@ 2 Each, 1500 Watts	3000 Watts	
Laundry Circuit		0 Watts	
	<b>Total</b>	<b>4095 Watts</b>	
First	3000 Watts @ 100%	3000 Watts	
Next	1095 Watts @ 35%	383.25 Watts	
	<b>Subtotal</b>	<b>3383.3 Watts</b>	
Range	3650 Watts @ 80%	2920 Watts	
Electric Water Heater		2500 Watts	
Split A/C Unit		0 Watts	
	<b>Subtotal</b>	<b>5420 Watts</b>	
	<b>Subtotal</b>	<b>8803.3 Watts</b>	
Net computed load for 100/200-V 3-wire, single phase feeder			
Amps =	8803.3 Watts / 240 Volts =	37 Amps	
Calculation for neutral sizing			
Lighting and small appliance net load		3383.3 Watts	
Range:	2920 Watts @ 70%	2044 Watts	
Dryer:	0 Watts @ 70%	0 Watts	
	<b>Total</b>	<b>5427.3 Watts</b>	
Amps =	5427.3 Watts / 240 Volts =	23 Amps	

**MINIMUM SIZE FEEDER REQUIRED FROM SERVICE EQUIPMENT FOR 16 UNITS**

Total Computed Load: Lighting and Small Appliance Load	16 Unit x 4095 Watts =	65520 Watts
EWH and A/C Load	16 Unit x 2500 Watts =	40000 Watts
Range Load	16 Unit x 3650 Watts =	58400 Watts
Net Computed Load (16 units)		163920 Watts
Net Computed Load Using Optional Calculation	163920 Watts x 39 % =	63928.8 Watts or
	63928.8 Watts / 240 Volt =	266.37 Amps
		64 kVA

**Note:**  
This calculation shows that the overall impact on the existing HECo service by addition of an Electric Range in each Unit. It requires 1.7 times larger service capacity than the existing one.

**TYPICAL UNIT ELECTRICAL LOAD CALCULATION**

(A/C only option)

Unit Type: A		
Total Square Feet:	365 sf	
General Lighting	@ 3 watts per square foot =	1095 Watts
Kitchen Appliance	@ 2 Each, 1500 Watts	3000 Watts
Laundry Circuit		0 Watts
	<b>Total</b>	<b>4095 Watts</b>
Firer	3000 Watts @ 100%	3000 Watts
Next	1095 Watts @ 35%	383.25 Watts
	<b>Subtotal</b>	<b>3383.3 Watts</b>
Range	0 Watts @ 80%	0 Watts
Electric Water Heater		2500 Watts
Split A/C Unit		6000 Watts
	<b>Subtotal</b>	<b>8500 Watts</b>
	<b>Subtotal</b>	<b>11883 Watts</b>
Net computed load for 100/200-V 3-wire, single phase feeder		
Amps =	11883.25 Watts / 240 Volts =	50 Amps
Calculation for neutral sizing		
Lighting and small appliance net load		3383.3 Watts
Range:	0 Watts @ 70%	0 Watts
Dryer:	0 Watts @ 70%	0 Watts
	<b>Total</b>	<b>3383.3 Watts</b>
Amps =	3383.25 Watts / 240 Volts =	14 Amps

**MINIMUM SIZE FEEDER REQUIRED FROM SERVICE EQUIPMENT FOR 16 UNITS**

Total Computed Load:

Lighting and Small Appliance Load  
 16 Unit x 4095 Watts = 65520 Watts

EWH and A/C Load

16 Unit x 8500 Watts = 136000 Watts

Range Load

16 Unit x 0 Watts = 0 Watts  
 Net Computed Load (15 units) 201620 Watts

Net Computed Load Using Optional Calculation

201620 Watts x 39 % = 78592.8 Watts or 78.6 KVA  
 78592.8 Watts / 240 Volts = 327.47 Amps

Note:

This calculation shows that the overall impact on the existing HECC service by addition of an A/C in each Unit. It requires 2.1 times larger service capacity than the existing one.

**TYPICAL UNIT ELECTRICAL LOAD CALCULATION**

(No A/C and Range Option)

Unit Type: A				
Total Square Feet:	365 sf			
General Lighting	@ 3 watts per square foot =	1055 Watts		
Kitchen Appliance	@ 2 Each, 1500 Watts	3000 Watts		
Laundry Circuit		0 Watts		
	<b>Total</b>	<b>4095 Watts</b>		
First	3000 Watts @ 100%	3000 Watts		
Next	1095 Watts @ 35%	383.25 Watts		
	<b>Subtotal</b>	<b>3383.3 Watts</b>		
Range	0 Watts @ 80%	0 Watts		
Electric Water Heater		2500 Watts		
Split A/C Unit		0 Watts		
	<b>Subtotal</b>	<b>2500 Watts</b>		
	<b>Subtotal</b>	<b>5883.3 Watts</b>		
Net computed load for 100/200-V 3-wire, single phase feeder				
Amps =	5883.25 Watts / 240 Volts =	25 Amps		
Calculation for neutral sizing				
Lighting and small appliance net load		3383.3 Watts		
Range:	0 Watts @ 70%	0 Watts		
Dryer:	0 Watts @ 70%	0 Watts		
	<b>Total</b>	<b>3383.3 Watts</b>		
Amps =	3383.25 Watts / 240 Volts =	14 Amps		

**MINIMUM SIZE FEEDER REQUIRED FROM SERVICE EQUIPMENT FOR 16 UNITS**

Total Computed Load:

Lighting and Small Appliance Load

16 Unit x 4095 Watts = 65520 Watts

EWB and A/C Load

16 Unit x 2500 Watts = 40000 Watts

Range Load

16 Unit x 0 Watts = 0 Watts

Net Computed Load (15 units) 105520 Watts

Net Computed Load Using Optional Calculation

105520 Watts x 39 % = 41162.8 Watts or 41.2 KVA

41162.8 Watts / 240 Volt = 171.47 Amps

Note:

This calculation shows that the overall impact on the existing HECO service without A/C unit and Electric Range in each Unit. It requires 1.1 times larger than the 37KVA HECO transformer rating, but it is within the HECO transformer capacity.

**EXHIBIT L**

**CITY AND COUNTY LETTERS**

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

850 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 758-8000 • FAX: (808) 527-8743  
INTERNET: www.honolulu.gov • DEPT. WEB SITE: www.honolulu.gov

MUPI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID N. TANQUE  
DEPUTY DIRECTOR

(RLK)

September 26, 2007

Jeffrey S. Grad, Esq.  
Attorney at Law  
A Law Corporation  
Davies Pacific Center, Suite 1800  
841 Bishop Street  
Honolulu, Hawaii 96813

Dear Mr. Grad:

Subject: Condominium Conversion Project  
2551 Carlwright Road  
Tax Map Key: 2-6-027: 027

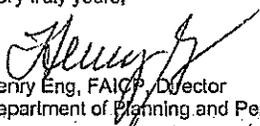
This is in reference to the deficiencies mentioned in our letter [2005/ELOG-375(RLK)], dated October 5, 2005.

An inspection on September 11, 2007 and an investigation on September 21, 2007 revealed that the deficiencies have been corrected as follows:

1. On September 21, 2007, Building Permit No. 609639 was completed for the Jacuzzi at the rear of the building.
2. The required eight (8) off-street parking spaces are now provided.
3. The space under the exterior stairway that was being used for storage has been cleared.

If you have any questions regarding this matter, please contact Mr. Ivan Matsumoto of our Commercial and Multi-Family Code Enforcement Branch at 768-8151.

Very truly yours,

  
Henry Eng, FAICP, Director  
Department of Planning and Permitting

HE:ft

doc559431

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.honolulu.gov • INTERNET: www.honolulu.gov

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID X. TANOUÉ  
DEPUTY DIRECTOR

October 5, 2005

2005/BLOG-375 (RLK)

Jeffrey S. Grad, Esq.  
Attorney at Law  
A Law Corporation  
Davies Pacific Center, Suite 1800  
841 Bishop Street  
Honolulu, Hawaii 96813

Dear Mr. Grad:

Re: Condominium Conversion Project  
2551 Cartwright Road  
Tax Map Key: 2-6-027: 027

This is in response to your letter dated February 16, 2005, requesting verification that the structures on the above-referenced property met all applicable code requirements at the time of construction.

Investigation revealed that a four-story apartment building with eight (8) all-weather-surface off-street parking spaces met all applicable code requirements when it was constructed in 1965 on this 5,000 square-foot X-6 Resort Mixed-Use Precinct zoned lot.

Investigation also revealed the following:

1. The facility is being used as a transient vacation unit.
2. The lot size is considered nonconforming because it is less than 10,000 square-feet.
3. The building is considered nonconforming because it encroaches into the required front yard and the building floor area exceeds the maximum density.
4. On November 17, 1999, a variance (file no. 1999/VAR-37) was approved with conditions to allow (retain) fences and/or walls, which encroach into the required front yard, and eliminate required landscaping.

**EXHIBIT L**  
Page 2 of 4

Jeffrey S. Grad, Esq.  
October 5, 2005  
Page 2

Investigation further revealed the following deficiencies:

1. No building permit was found for the jacuzzi installed at the rear of the building.
2. The facility has only six (6) of the required eight (8) off-street parking spaces.
3. The storage space under the exterior stairway is not permitted.

If these deficiencies are not corrected in a timely manner, a notice of violation will be issued.

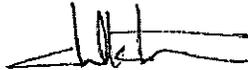
No other variance or other permit was granted to allow deviation from any applicable codes.

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

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

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

Very truly yours,



Henry Eng, FAICP, Director  
Department of Planning and Permitting

doc401742



City & County of Honolulu  
Department of Planning and Permitting (DPP)  
Tax Map Key Info

| Details |

TMK: 2-6-027:027  
Historical TMK Sequence:  
Area (sq ft): 5000.  
Area (acres): 0.115  
Lot Number:  
Ohana:

LAND CONTROL CODES

Code Type Code Description  
FLOOD ZONE FIRM ZONE X  
HEIGHT LIMIT 220 FEET  
HISTORIC SITE REGISTER NO  
LOT RESTRICTIONS NONE  
SMA/SHORELINE NOT IN SMA  
SPECIAL DISTRICT WAIKIKI SPECIAL DISTRICT  
STATE LAND USE URBAN DISTRICT  
STREET SETBACK YES--SEE DTS MAP PUC-14. VERIFY WITH DTS 523-4491  
ZONING (LUD) RESORT MIXED USE PRECINCT

FACILITIES

Facility Code Year Built No. of Floors  
04 - Apartment (More than 2 units, shares common access to street) 1985. 4.

TMK SEPARATIONS

Activity Code Census Tract Census Block  
1 - HOUSEHOLD DWELLING 01B.01 204

Address List:

2551 - CARTWRIGHT RD.

Post-It® Fax Note	7671	Date Rec'd	8/10/2005
To	523-4491	From	523-4491
Co./Dept.		Co.	
Phone #	523-4491	Phone #	523-4491
Fax #	523-4491	Fax #	523-4491

Close

City and County of Honolulu  
Department of Permitting & Planning  
650 So. King St, Honolulu, HI 96813  
Fax: (808) 527-6743  
E-mail: [info@honolulu.gov](mailto:info@honolulu.gov)

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**EXHIBIT M**  
**RESERVED RIGHTS**

3.4 **Unit 101 Owner Right to Grant Parking Stalls.** The Developer and any Successor Owner of Unit 101 shall have the right, at any time or times, and in its sole discretion, to convey to the Association or to any Unit Owner, any number of the eight (8) parking stalls which are currently Limited Common Elements appurtenant to Unit 101. Upon the conveyance of all or any of the stalls, the Developer, Association and/or respective Unit Owner, as the case may be, shall without the joinder of any other person except the mortgagees of such Units, (i) record an Amendment to this Declaration and if necessary, the Bylaws and other Project documents, to reflect said conveyance of the parking stall, (ii) reallocate the Common Interest such that the Common Interest appurtenant to Unit 101 shall decrease by 1% and Common Interest for the Unit to which the parking stall is conveyed shall increase by 1%, (iii) set forth the terms and conditions for use of the parking stall(s), including but not limited to granting the Association the right to charge the grantee for any additional maintenance costs incurred by the Developer or the Association in connection with the conveyed parking stalls, and (iv) do whatever is necessary for the conveyance of the parking stall(s) to comply with the Act and the Project documents.

7.3 **Access.** The Developer and the Association shall have the irrevocable right, to be exercised by its Board or the Managing Agent, or their respective employees, agents or contractors, to have access to each Unit and the Limited Common Elements from time to time during reasonable hours as may be necessary for the operation of the Project or for the inspection, installation, repair, maintenance or replacement of any Common Elements. The Association shall have the irrevocable right, to be exercised by the Board or the Managing Agent, or their respective employees, agents or contractors, to have access to each Unit at any time as may be necessary for making emergency repairs to prevent damage to the Common Elements or to another Unit or Units.

7.5 **Reserved Easements to Developer.** The Developer hereby reserves the right to designate, grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across, or through the Common Elements (including the Limited Common Elements) for any reasonable purpose, which may include, but shall not be limited to, those purposes which are necessary to the operation, care, upkeep, maintenance or repair of any Unit or the Common Elements or any easements for utilities or for any public purpose; provided, however, that in exercising its rights under this paragraph, the Developer shall not do anything or permit anything to be done which shall unreasonably interfere with the use of the affected Common or Limited Common Element for its originally intended purpose, unless such action is required to ensure the public health, safety or welfare or to comply with any governmental rule, regulation, law or ordinance. The rights set forth in this Paragraph shall continue for a period of twenty-four (24) months following recordation of the last Unit deed conveying a Unit to any person other than the Developer, a party related to the Developer or the Developer's successor in interest. The Developer, by a recorded instrument, may transfer some or all of the rights under this paragraph to the Association, to be exercised as determined by the Board.

7.6 **Sales Activities.** The Developer shall have and hereby reserves, and the Developer's mortgage lender (as hereinafter defined) shall have, the right and easement to conduct extensive activities on or from the Project, including the Common Elements, in connection with the sale or leasing of the Units in the Project, including the use of model units, sales, leasing and management offices, parking stalls and extensive sales and leasing displays and activities. "Mortgage lender" shall mean any holder of a mortgage encumbering any of the Developer's interest in the Project or a Unit or any person acquiring such interest of the Developer or Unit at foreclosure of such mortgage, or by conveyance in lieu of foreclosure.

7.7 **Easement to Complete Repairs and Maintenance of the Project.** The Developer shall have and hereby reserves an easement over and upon any portion of the Project, including the Common Elements and any Unit, as may be reasonably necessary for the repair, maintenance or replacement of any improvements to, and correction of defects and other punch list items in the Common Elements or any Unit.

7.8 **Developer's Easement to Create Noise etc.** Developer, its agents, employees, contractors and licensees shall have an easement over, under and upon the Project or any portion of the Project, to create and cause noise, vibration, dust and other nuisances created by or resulting from any work connected with or incidental to the renovation, repair or sale of any Unit or other improvements in the Project, and each Unit owner, lessee, mortgagee, lien holder or other person with an interest in the Project waives any right, claim or action which such person may have or acquire against Developer, its agents, employees, contractors, licensees, successors and assigns as a result of such activity or activities.

7.9 **Compliance with Law by Developer.** If the Project is found not to be in compliance with any federal, state or local law during the period that Developer is selling the Units in the Project or thereafter, the Developer shall have the right (but not the obligation), at its election, at any time thereafter to enter the Project and make such modifications to the Common Elements as are necessary, in the Developer's judgment, to bring the Project into compliance with the applicable laws. This right shall include, but shall not be limited to, the right to cause noise, dust and other disturbances and nuisances incidental to modifying the Common Elements as required; provided, however, that the Developer or any party performing such work on behalf of the Developer shall make reasonable efforts to minimize such disturbances and nuisances.

7.10 **Installation of Elevator and Usable Roof Space.** The Association and the Developer reserve the right for the benefit of the Association to alter the Common Elements in order to: (a) install one or more elevators in the Project, and (b) improve the roof of the Building in order to create usable space. Upon completion of said improvements, both the elevator and usable roof space shall be Common Elements of the Project. The Developer's rights set forth in this Paragraph shall continue for a period of twenty-four (24) months following recordation of the last Unit deed conveying a Unit to any person other than the Developer, a party related to the Developer or the Developer's successor in interest, or until such time that the Developer transfers all of its rights under this Paragraph to the Association.

7.12 **Right to Assign.** All rights and easements reserved to the Developer in this Declaration may be assigned by the Developer at any time, in whole or in part, with or without a Unit, to any other person, without notice to or the consent or joinder of the Association or any Owner, lien holder or any other person other than the Developer's mortgagees whose prior written consent shall be obtained.

7.13 **Right to Convert Limited Common Elements to Units.** Developer shall have the right without the joinder of any other party to convert a Limited Common Element appurtenant to a Unit or Units owned by Developer, or any portion of it, into a separate Unit of the Condominium. Any such conversion shall be effective if these procedures are followed:

(a) Developer records or causes to be recorded an amendment to this Declaration describing the Unit(s) in question and setting forth at least: (a) a description of the newly formed Unit(s), and (b) the Common Interests appurtenant to the newly formed Units and existing Units, which Common Interests shall equal the total of the Common Interest appurtenant to the original Units; and

(b) Developer shall record or cause to be recorded an amendment to the Condominium Map to show the floor plans and elevations for the newly-created Unit(s), as necessary, together with a verified statement of a registered architect or professional engineer complying with Section 514B-34.

9.1 **Units.** The Units may be used for residential purposes and for any other use that is permitted for the Land under the City and County of Honolulu Land Use Ordinance, then in effect, including but not limited to resort or transient vacation use. Unit 101 may also be used for administrative offices, retail, sales and marketing, or other purposes related to operation and management of the Project and operations, management and rental of other Units. The Developer and any Successor Owner of Unit 101 shall have the right, at any time and in its sole discretion, to convey, and the Association shall accept, Unit 101 via quitclaim deed or otherwise.

24.1 **Developer's Reserved Rights.** The Developer has reserved certain rights under this Declaration, specifically those rights set forth in (i) Paragraph 7 to grant easements, to conduct sales activities, and to have an easement to complete repairs in the Project; (ii) Paragraph 22, to amend this Declaration prior to the sale of all of the Units in the Project and to amend this Declaration in connection with filing in the Bureau "as built" drawings and certificates; and (iii) Paragraphs 3.4 and 9.1, pertaining to Unit 101 and its parking stalls. Each of such reserved rights (including ancillary and related rights) is more particularly described in this Declaration ("Developer's Reserved Rights" collectively). These Reserved Rights include, among other rights, the rights to take certain action and to amend this Declaration, the Bylaws and the Condominium Map to reflect changes to the Project or the Land caused by or otherwise related to the exercise of the Developer's Reserved Rights.

24.2 **Exercise of Developer's Reserved Rights.** The Developer may exercise any of the Developer's Reserved Rights without being required to obtain the consent, approval or joinder of the Association or any person, including any Unit Owner or any lien holder, or any other person who may have any interest in the Project or the Land.

24.3 **Agreements by Affected Persons, including Power of Attorney.** Notwithstanding the foregoing, each such Unit Owner, mortgage holder, lessee and any other person having an interest in a Unit, the Land or the Project ("Affected Person") by acquiring or accepting the ownership of a Unit or a lien covering a Unit or any other interest in the Project or any Unit, does hereby agree (i) he shall, promptly upon the Developer's request and for no further consideration, execute, acknowledge and deliver to the Developer such written instruments as the Developer may require evidencing or confirming such joinder, approval or consent of such Affected Person with respect to Developer's Reserved Rights; and (ii) no later than upon acquiring an interest in a Unit, the Land or the Project, such Affected Person shall execute and deliver an instrument in recordable form to appoint the Developer as such Affected Person's special attorney-in-fact for the limited purposed of accomplishing the purposes set forth herein, and such shall constitute an irrevocable power of attorney in favor of the Developer from such Affected Person, and the grant being coupled with an interest, being irrevocable; and (iii) by the acquiring or acceptance of an interest in a Unit, the Land or the Project, such shall constitute a grant of such power of attorney, and the grant being coupled with an interest, being irrevocable.

24.4 **Association Joinder, if necessary.** To the extent that joinder, approval or consent of the Association may be required in order to effect any of the changes contemplated by, caused by or arising in connection with the Developer's Reserved Rights, such joinder, approval or consent may be given by the Board acting on behalf of and in the name of the Association in accordance with a resolution to so act approved by a majority of the Board but without requiring any other approval by the members of the Association, and any and all instruments thereby required, including (but not limited to) any amendments to this Declaration, Bylaws and/or the Condominium Map shall be signed by such officer or officers of the Board as are authorized to sign such instruments pursuant to said resolution.

**EXHIBIT N**  
**OPERATING BUDGET**

**AOAO**  
**The Cabana at Waikiki**  
**Draft Operating Budget**  
**May 23, 2010**

Ordinary Income/Expense

Income

Dues Revenue	\$	59,100.00		
Laundry Revenue	\$	1,000.00		
Interest Income	\$	400.00		
<b>Total Income</b>			\$	60,500.00

Expense

Bank Service Charges	\$	120.00	\$	120.00
Insurance	\$	12,500.00	\$	12,500.00
Legal & Accounting	\$	2,500.00	\$	2,500.00
Licenses & Permits	\$	500.00	\$	500.00
Maintenance:				
Landscape	\$	3,000.00		
Building	\$	6,000.00		
<b>Total Maintenance</b>			\$	9,000.00
Office Supplies			\$	250.00
Refuse			\$	2,500.00
Reserve Contribution			\$	9,000.00
Management			\$	7,200.00
Contingency			\$	3,130.00
Utilities:				
Electricity	\$	1,800.00		
Water	\$	12,000.00		
<b>Total Utilities</b>			\$	13,800.00
<b>Total Expense</b>			\$	60,500.00
<b>Net Income</b>			\$	-

**MAINTENANCE FEE ALLOCATIONS**

<b>Unit No.</b>	<b>Type</b>	<b>Common Interest</b>	<b>Monthly Maintenance Fee</b>	<b>Annual Maintenance Fee</b>
101	Studio	10.00%	\$492.50	\$5,910.00
201	1 Bedroom	6.00%	\$295.50	\$3,546.00
202	1 Bedroom	6.00%	\$295.50	\$3,546.00
203	1 Bedroom	6.00%	\$295.50	\$3,546.00
204	1 Bedroom	6.00%	\$295.50	\$3,546.00
205	1 Bedroom	6.00%	\$295.50	\$3,546.00
301	1 Bedroom	6.00%	\$295.50	\$3,546.00
302	1 Bedroom	6.00%	\$295.50	\$3,546.00
303	1 Bedroom	6.00%	\$295.50	\$3,546.00
304	1 Bedroom	6.00%	\$295.50	\$3,546.00
305	1 Bedroom	6.00%	\$295.50	\$3,546.00
401	1 Bedroom	6.00%	\$295.50	\$3,546.00
402	1 Bedroom	6.00%	\$295.50	\$3,546.00
403	1 Bedroom	6.00%	\$295.50	\$3,546.00
404	1 Bedroom	6.00%	\$295.50	\$3,546.00
405	1 Bedroom	6.00%	\$295.50	\$3,546.00
	<b>TOTAL</b>	100%	\$4,925.00	\$59,100.00

I, G. Lee FitzGerald, President of DIAMOND VIEW VACATIONS LLC, a Hawaii limited liability company, the Manager of CARTWRIGHT ROAD ASSOCIATES, LLC, a Hawaii limited liability company, certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Purchasers become obligated to pay maintenance fees upon closing.

\_\_\_\_\_  
Signature

\_\_\_\_\_, 2008  
Date

EXHIBIT O

SUMMARY OF SALES CONTRACT

The Purchase Contract (“Sales Contract”) provides for the sale of a Unit by the Developer to a Buyer. The Sales Contract is based on the Hawaii Association of Realtors Standard Form and the standard As-Is Addendum thereto, with certain deletions and revisions which are shown on the Sales Contract. The Sales Contract contains many important provisions which are not set out here and should be carefully reviewed by every prospective Buyer. The documents have been written in language intended to be easier for Buyers to read than that used in traditional legal documents. This summary is not complete and will not control in the event of any conflict with a provision in the Sales Contract. Prospective Buyers are cautioned and encouraged to read carefully the Sales Contract. In the Sales Contract, the Developer is called “Seller”.

1. The Sales Contract provides for the number, amount and timing of payments Buyer is to make to Escrow.
2. The Sales Contract describes the “Property” being sold, including the Unit, its Common Interest, and any personal property and fixtures which will be included.
3. The Sales Contract requires Seller to provide certain important legal documents for the Project to Buyer including the Declaration and Bylaws.
4. Section C-67 contains special terms which should be reviewed by Buyer, including but not limited to: (i) purchaser is required to pay all closing costs, including a \$1,000 fee towards reserves. (ii) that Seller is exempt from the requirements of Hawaii Revised Chapter 508D pertaining to Seller’s Disclosures, (iii) highlighting limitations on the use of the parking stalls, (iv) the fact that termite inspections will be performed at purchaser’s expense, and (v) that the Sales Contract will not be binding until an effective date is given for this amendment to the Developer’s Public Report.
5. Section C-70 of the Sales Contract contains the following disclaimer:

**RENTAL PROPERTY. BUYER UNDERSTANDS THAT SELLER AND THE BROKERAGE FIRMS ARE NOT OFFERING TO SELL OR SELLING THE PROPERTY TOGETHER WITH ANY EXISTING OR FUTURE RENTAL POOL OR OTHER RENTAL ARRANGEMENT. SELLER AND THE BROKERAGE FIRMS MAKE NO REPRESENTATIONS OR GUARANTEES ABOUT FUTURE RENTS OR FUTURE RESALE VALUE. BUYER UNDERSTANDS THAT SHOULD BUYER RENT THE PROPERTY AFTER CLOSING, BUYER IS ASSUMING ALL RISKS RELATIVE TO ALL OF THE FOREGOING. THE SALE INCLUDES REAL PROPERTY ONLY, AND THE INTENT IS NOT TO CONVEY A SECURITY OR INVESTMENT**

**SECURITY AS DEFINED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION OR OTHER GOVERNMENTAL AGENCY.**

6. Buyer takes the Unit and Project "as-is" and will be executing the Existing "AS IS" Condition Addendum (the "Addendum") that is a part of the Hawaii Association of Realtors Standard Form. The Addendum states that the Property is being sold in its existing condition. Seller will make no repairs and will convey the Property without any representations or warranties, except as may be agreed to elsewhere in the Sales Contract. Buyer is advised to obtain professional property inspections and to inspect all public records relating to the Property. Should the Buyer find the Property unacceptable, Buyer has the right to cancel the Sales Contract prior to the expiration of the Term C-51 "Inspection of Property" time frame stated in the Sales Contract. Buyer will be provided an opportunity to conduct a final walk through prior to recordation only to assess that Property is in no worse condition and repair than it was in upon removal of the "Inspection of Property" Contingency. The Addendum does not eliminate the Termite Inspection Report, staking, and or survey.

7. The Addendum-CBP Standard also states that the improvements may not confirm to current building codes and/or may not have all required building permits. Buyer is strongly advised to inspect all public records and make reasonable inquiry prior to the Term C-51 "Inspection of Property" contingency deadline. Buyer waives all rights to assert any claim, demand, proceeding or lawsuit against Seller and/or the real estate agent's concealment of material facts and defects, which those parties are required to disclose by law.

8. The Addendum-CBP Standard also provides an affiliated business disclosure.

9. The Termination Provisions are set for in Section C-28, C-29 and C-30 of the Sales Contract.

10. The Purchase Contract also contains a Buyer's Acknowledgement which discloses additional information cautioning purchasers about potential nuisances caused by airflow, building operation, fumes, neighbors, adjacent properties, pedestrians, traffic, and other natural occurrences. The Acknowledgement also (i) discloses the encroachment which is described in the Second Amendment to the Declaration, and (ii) highlights spalling issues which were disclosed in the Exhibit I to the original Developer's Public Report.

11. The Purchaser's Contract also contains disclosures related to lead based paints, a consent to allow the broker to represent both Seller and Buyer, an addendum explaining that the Developer's Public Report replaces the requirement for Seller's Disclosures pursuant to HRS 508D, an addendum that is applicable if the purchaser needs VA Financing and a 1031 exchange addendum in case the transaction is made part of such an exchange.

## EXHIBIT P

### SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement provides how the funds paid by Buyer under the Sales Contract to Escrow are to be held and released. The Escrow Agreement contains many important provisions which are not set out here and should be carefully reviewed by every prospective Buyer. This summary is not complete and will not control in the event of any conflict with a provision in the Escrow Agreement. Prospective Buyers are cautioned and encouraged to read the Escrow Agreement carefully. In the Escrow Agreement, the Developer is called "Seller".

1. The Escrow Agreement provides that Escrow is to collect Buyer's payments and hold them in a federally insured, interest-bearing account at any bank, savings and loan association, financial services loan company or credit union authorized to do business in the State of Hawaii; provided, however, if Escrow is instructed to make such deposits more frequently than once each calendar week, Seller shall pay to Escrow a reasonable service charge for each additional deposit made during such week.
2. The Escrow Agreement provides for the closing or settlement of the sale. Escrow collects all payments and other amounts owed under the Sales Contract, including closing costs which are shared between the Seller and Buyer as set forth in the Sales Contract.
3. Escrow handles the closing and the transfer of title in accordance with the Escrow Agreement. The Unit must be conveyed to Buyer free and clear of any blanket liens, such as mortgages covering more than one unit.
4. The Escrow Agreement provides certain protections to Escrow in the event of a dispute between Buyer and the Seller. These rights include filing an "interpleader" and the right to recover certain fees and costs. In an interpleader action the escrow deposit is given to the court to decide what action to take.
5. The Escrow Agreement sets out escrow fees, escrow cancellation fees and the fees for certain policies of title insurance.
6. The terms under which a Buyer is entitled to a refund are set forth in the Escrow Agreement, and includes but is not limited to instances where (a) Buyer and Seller mutually agree, (b) Seller and/or Buyer exercise their respective rights to terminate the Sales Contract pursuant to the Sales Contract.

#### 6. Return of Buyer's Funds and Documents.

(a) Cancellation or Rescission of a Sales Contract. Unless otherwise provided in this Agreement, a Buyer shall be entitled to a return of such Buyer's funds and Escrow shall

pay such funds to such Buyer, together with any interest which may have accrued to the credit of such Buyer, if any one of the following has occurred:

(i) Seller and Buyer shall have requested Escrow in writing to return to Buyer the funds of Buyer held hereunder by Escrow; or

(ii) Seller shall have notified Escrow of Seller's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Seller; or

(iii) The Buyer shall have notified Escrow of Buyer's exercise of Buyer's right to cancel the sales contract pursuant to HRS §514B-86 (thirty-day right to cancel), or, if applicable, HRS §514B-89 (failure to complete construction before specified completion deadline); or

(iv) The Buyer shall have notified Escrow of Buyer's exercise of Buyer's right to rescind the sales contract pursuant to HRS §514B-87, by a valid rescission signed by all Buyers of the affected unit and postmarked no later than midnight of the thirtieth calendar day after the date that the Buyers received the notice of rescission from Seller, in which case the Buyers shall be entitled to a prompt and full refund of any moneys paid.

In any of the foregoing events, Escrow shall, upon occurrence of the event described in sections 6(a)(i) or 6(a)(ii) above or upon receipt of a written request for a refund from the Buyer upon the occurrence of an event described in sections 6(a)(iii) or 6(a)(iv) above, unless the Buyer has waived or has been deemed to have the right to a refund, pay said funds to the Buyer (less a cancellation fee commensurate with the work done by Escrow prior to such cancellation, up to a maximum of \$250.00); provided, however, that no refund shall be made to a Buyer at the Buyer's request prior to receipt by Seller of written notice from Escrow of Escrow's intent to make such refund and the Buyer shall be not be required to pay a cancellation fee to Escrow for any rescission pursuant to HRS §514B-87.

(b) Refund Upon Failure to Obtain Financing by Owner-Occupant. If a prospective Owner-Occupant has not obtained adequate financing, or a commitment for adequate financing, by a date specified in the sales contract, the sales contract may be canceled by either Seller or the Buyer. Upon a written request from either Seller or Buyer, Escrow shall return Buyer's funds, without interest, and less an escrow cancellation fee commensurate with the work done by Escrow prior to such rescission, up to a maximum of \$250.00

7. The terms under which Buyer's funds may be disbursed are set forth in the Escrow Agreement, and includes but is not limited to instances where (a) the conditions set forth in Section 5 of the Escrow Agreement has been performed.

5. Conditions to Be Met Prior to Disbursement of Funds in Escrow. No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled.

(a) Effective Public Report and Amendments. Seller shall have delivered to the Buyer a true copy of the Public Report including all amendments, with effective date(s) issued by the Real Estate Commission. Seller shall provide to Escrow a true copy of each Public Report and amendment issued for the Project, and each pending amendment with the date that the pending amendment was filed with the Real Estate Commission.

(b) Waiver of Cancellation Rights.

(i) Notice of Cancellation. Seller shall have delivered to the Buyer notice of the purchaser's thirty-day right of cancellation on a form prescribed by the Real Estate Commission.

(ii) Waiver of Cancellation Rights. The Buyer shall have waived the right to cancel or shall be deemed to have waived the right to cancel in accordance with HRS §514B-86(c).

(iii) Receipts Related to Cancellation Rights. Seller shall have provided to Escrow evidence that the Buyer has received a true copy of the Public Report and all amendments thereto and the notice of the thirty-day right of cancellation, which evidence may be a receipt of the Public Report signed by the Buyer, a receipt of the notice of the thirty-day right of cancellation signed by the Buyer, return receipts for copies of the Public Report or notice sent by certified or registered mail or such other evidence satisfactory to Escrow.

(c) Waiver of Rescission Rights.

(i) No Material Change. Seller shall affirm to Escrow that there has been no material change in the Project after the sales contract became binding. ("Material change" as used herein shall have the meaning contained in HRS §514B-3.) Otherwise, the rescission provisions set forth below shall apply.

(ii) Rescission Waived. In the event of a material change in the Project after the sales contract becomes binding, Seller shall affirm that Seller has delivered to the Buyer a description of the material change on a form prescribed by the Real Estate Commission.

(iii) Notice of Right of Rescission Because Material Change. Seller shall have delivered to the Buyer notice of the Buyer's thirty-day rescission right on a form prescribed by the Real Estate Commission.

(iv) Waiver of Rescission Rights. The Buyer shall have waived the right to rescind or shall be deemed to have waived the right to rescind in accordance with HRS

§514B-87(b). (The Buyer may waive the Buyer's rescission right by (A) checking the waiver box on the rescission notice, signing it and delivering it to the Seller; (B) letting the thirty-day rescission period expire without taking any action to rescind; or (C) closing the purchase of the unit before the rescission period expires.)

(v) Receipts Related to Rescission Rights. Seller shall have provided to Escrow evidence that the Buyer has received the thirty-day notice of right of rescission, which evidence may be a receipt for the notice of the thirty-day right of rescission signed by the Buyer, return receipts for copies of the notice mailed certified or registered mail or such other evidence satisfactory to Escrow.

(vi) Disbursement of Funds for Payment of Project Costs (Prior to Closing or Prior to Completion of Project). If Buyer deposits are to be released prior to Closing or if units are conveyed or leased prior to completion of construction, Seller shall certify to Escrow in writing and to Escrow's satisfaction that Seller has complied with all of the requirements of HRS §514B-92 or §514B-93, as applicable. Subject to the provisions of the preceding sentence, disbursements of Buyer deposits held in escrow shall be made not more than once each month on one check by Escrow, without charge, if requested in writing by Seller, to Seller, to Seller's general contractor or to Seller's lender for the following:

(vii) Construction Costs. To pay for construction costs of the buildings and other improvements and fixtures (or in the case of a conversion, for repairs necessary to cure violations of county zoning and building ordinances and codes) in such amounts and at such times in proportion to the valuation of the work completed by the contractor in accordance with the terms of the construction contract, as certified by a licensed architect or engineer and as approved by Seller's lender or a qualified financially disinterested person who shall be designated in writing by Seller and Seller's lender, if any, and who shall certify to Escrow in writing that such person is financially disinterested (and Escrow shall have the right to rely on said certification).

(viii) Fees and other Expenses. To persons for architectural, engineering, finance and legal fees and other incidental expenses of the Project (but not selling expenses or brokerage fees relating to sales of any unit) to the extent approved by Seller's lender or said financially disinterested person.

(ix) The balance of monies remaining in escrow shall be disbursed in accordance with the directions of Seller and Seller's lender or said financially disinterested person only on completion of the buildings of the Project (or in the case of a conversion, upon completion of the necessary repairs) and when Escrow has received satisfactory evidence that all mechanics' and materialmen's liens have been cleared or sufficient funds have been set aside to cover claims if liens have been filed; otherwise forty-six (46) days after the filing of the affidavit of publication of notice of completion in the office of the clerk of the circuit court where the Project is located, a copy of which shall have been delivered to Escrow; provided, further that if any notice of mechanics' or materialmen's liens shall have been filed, the funds shall be

disbursed only when such liens have been cleared or sufficient funds have been set aside to cover such claims.

(d) Receipt of Opinion by Escrow. Seller shall have done the following:

(i) Statement of Compliance. Deliver a written statement to Escrow stating that to Seller's belief and knowledge, purchasers sales contract have become effective and that:

(1) the requirements of HRS §§514B-82 to 514B-93, have been satisfied;

(2) all conditions contained in this Agreement that must be met prior to the disbursement of purchasers' funds have been satisfied, except as may have been otherwise waived by Escrow;

(3) all sales contracts delivered to Escrow are binding upon the purchasers; and

if the Project is a conversion project, that requirements of HRS §521-38, have been satisfied

(ii) Notification. Agree to inform Escrow immediately in writing of the development of any event or occurrence which renders the opinion delivered by Seller or Seller's attorney pursuant to Section 5(d)(i) above or any of the warranties and representations in Section 12 below untrue.

(e) Seller's Waiver. Seller shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract.

8. If the Buyer fails to make payment to Escrow on or before the due date or if the Buyer fails to perform in any matter that is being handled by Escrow, Escrow will notify Seller of any such failure on the part of the Buyer. If Seller subsequently notifies Escrow in writing that Seller has terminated the Sales Contract in accordance with the terms thereof and provides to Escrow copies of all such notices of termination sent to the Buyer, Escrow shall thereafter treat all funds of the Buyer paid on account of such Buyer's Sales Contract as funds of Seller and not as funds of the Buyer. Thereafter, such funds shall be free of the escrow established by the Escrow Agreement and shall be held by Escrow for the account of Seller. Upon written request by Seller, Escrow shall pay such funds to Seller, less any escrow cancellation fee. Escrow shall thereupon be released from any further duties or liability hereunder with respect to such funds and such Buyer.