

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

CONDOMINIUM PROJECT NAME	1735 ALA AMOAMO STREET
Project Address	1735 Ala Amoamo Street, Honolulu, HI 96819
Registration Number	6809 (Conversion)
Effective Date of Report	June 9, 2009
Developer(s)	MICHAEL J. MISKE, JR., Trustee of the Michael J. Miske, Jr. Revocable Living Trust

**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.]

1. This Public Report does not constitute an approval or disapproval of the project nor a representation that the project is in compliance with all County codes, ordinances and subdivision requirements.
2. This project does not involve the sale of individual subdivided lots. The land area beneath and immediately adjacent to each Unit as shown on the Condominium Map is designated as a limited common element for that Unit and does not represent a legally subdivided lot. The dark dashed lines on the Condominium Map do not represent legally subdivided lots, but merely the location of the limited common element Yard Area assigned to each Unit.
3. Facilities and improvements normally associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for and services such as County street maintenance and trash collection may not be available for interior roads and driveways, if any.
4. The Project is covered by, and is subject to, an Existing Use Permit issued by the Department of Planning and Permitting of the City and County of Honolulu. The Existing Use Permit is binding on all present and future Unit owners, tenants and occupants of all Units of the Project and all other persons who shall at any time use the Project. The Existing Use Permit is attached to the Declaration of Condominium Property Regime filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii. A copy of the Existing Use Permit is attached to this report as Exhibit "A".
5. Pursuant to Section 514B-41, HRS, each Unit owner shall be obligated for the payment of the Unit owner's share of the common expenses commencing upon each owner's acquisition of its Unit; until such date the Developer shall assume all actual common expenses.
6. Each of the Units has been remodeled. It is possible Chapter 672E, Hawaii Revised Statutes, the "Contractor Repair Act", may apply to the sale of each Unit. Each prospective purchaser should carefully review such statute and obtain any necessary professional guidance in connection therewith. **\*CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.\***
7. The Exclusive Right Listing Agreement signed by Developer covers only Unit 1735. Developer will submit any subsequent listing agreements to the Commission.

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## **General Information On Condominiums**

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. In addition, certain requirements and approvals of the county in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

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

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

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

## **Operation of the Condominium Project**

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

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

# 1. THE CONDOMINIUM PROJECT

## 1.1 The Underlying Land

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	MICHAEL J. MISKE, JR., Trustee of the Michael J. Miske, Jr. Revocable Living Trust
Address of Project	1735 Ala Amoamo Street, Honolulu, HI 96819
Address of Project is expected to change because	N/A
Tax Map Key (TMK)	(1) 1-1-32:2
Tax Map Key is expected to change because	N/A
Land Area	26,796 square feet
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	N/A

## 1.2 Buildings and Other Improvements

Number of Buildings	3
Floors Per Building	2
Number of New Building(s)	0
Number of Converted Building(s)	3
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Wood, hollow-tile and glass.

## 1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc)	Total Area
1735	1	3/3	1,567	459	Garage	2,062
1735-A	1	3/3	980	560	Garage	1,540
1735-B	1	3/3Full,2Half	2,062	26	Storage	3,467
				420	Garage	
				522	Carport	
				324	Lanai	
				113	Washroom	
See Exhibit <u>    N/A    </u>						

3	<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 Stall in the Project:	6
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	2 (in each unit's garage)
Attach Exhibit <u>N/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.	N/A

**1.5 Boundaries of the Units**

<p><b>Boundaries of the unit:</b>          The perimeter of each Unit shall be established by the foundation, the exterior face of the perimeter walls, the exterior face of any glass windows, doors, panels or railings along the perimeter, and the exterior surface of roof. Each of the Units shall include all walls, partitions, floors, ceilings and other improvements within said perimeter, including the garage and/or carport, if any, as shown on the Condominium Map, all built-in appliances and fixtures and all furnishings and appliances originally installed, and all air space encompassed within said perimeter.</p>
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**1.6 Permitted Alterations to the Units**

<p>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):</p> <p>Each individual Unit owner may improve, remodel, relocate, expand, replace, renovate and/or otherwise alter its Unit as described in Section 11 of the Declaration; subject, however, to the terms and conditions of the Existing Use Permit.</p>
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**1.7 Common Interest**

<p><b>Common Interest:</b> 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:</p>
<p>Described in Exhibit <u>N/A</u></p>
<p>As follows:</p> <p>Each Unit has a common interest of 1/3 for all purposes, including voting.</p>

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

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

**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  B .

Described as follows:  
  
See attached Exhibit "B".

Common Element	Number
Elevators	0
Stairways	0
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  C .

Described as follows:  
  
See attached Exhibit "C".

**1.11 Special Use Restrictions**

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

<input type="checkbox"/>	Pets:
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Permitted Uses are set forth in Section 9 of the Declaration
<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  D  describes the encumbrances against title contained in the title report described below.

Date of the title report: April 3, 2009

Company that issued the title report: First American Title Insurance Company

**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 checked="" type="checkbox"/>	Residential	3	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	R-5
<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 type="checkbox"/>	Other (Specify):		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code			N/A	

**1.14 Other Zoning Compliance Matters**

**Conforming/Non-Conforming Uses, Structures and Lots**

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.

If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.

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 checked="" type="checkbox"/>	<input 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:

The dwellings are non-conforming because under current zoning ordinances, only two dwellings can be constructed on the Property. Accordingly, Developer has obtained an Existing Use Permit. Purchaser should refer to the attached Existing Use Permit with respect to the issue of what happens in the event of damage to or destruction of any dwelling.

**1.15 Conversions**

<p>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</p>	<p><input checked="" type="checkbox"/> Applicable</p> <p><input type="checkbox"/> Not Applicable</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:          Developer has replaced all electrical wiring in the Units. Based on a report prepared by an independent professional engineer, it is the Developer's opinion that all structural components and mechanical and electrical installations material to the individual Units appear to be, at minimum, in a condition consistent with their age.</p>	
<p>Developer's statement of the expected useful life of each item reported above:          No representations of any kind are made as to the expected useful life, if any, of the structural components and mechanical and electrical installations material to the use and enjoyment of the condominium apartments. See Exhibit "E".</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:  None.</p>	
<p>Estimated cost of curing any violations described above:  N/A</p>	

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

**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: MICHAEL J. MISKE, JR., Trustee of the Michael J. Miske, Jr. Revocable Living Trust</p> <p>Business Address: 940 B Queen Street, Honolulu, HI 96814</p> <p>Business Phone Number : (808) 591-9897</p> <p>E-mail Address: mike@kamaianatermite.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>Michael J. Miske, Jr., as Trustee</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: Nathalie Mullinix Realty Universal, Inc.</p> <p>Business Address: 500 Ala Moana Blvd., Ste. 400 Honolulu, HI 96813</p> <p>Business Phone Number: (808) 261-0350</p> <p>E-mail Address:</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: ISLAND TITLE CORPORATION</p> <p>Business Address: 1132 Bishop St., Ste. 400, Honolulu, HI 96813</p> <p>Business Phone Number: (808) 539-7509</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: N/A</p> <p>Business Address:</p> <p>Business Phone Number:</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: None, self managed by the Association</p> <p>Business Address:</p> <p>Business Phone Number:</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: WILLIAM C. BYRNS, ESQ.</p> <p>Business Address: 1001 Bishop St., Ste. 2650, Honolulu, HI 96813</p> <p>Business Phone Number: (808) 523-3080</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
Land Court	March 27, 2009	Land Court No. 3845621

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	May 27, 2009	Land Court No. 3862781

#### 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
Land Court	March 27, 2009	Land Court No. 3845622

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
N/A		

#### 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	1997
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map: Recorded May 28, 2009 (dated May 27, 2009)	

**3.4 House Rules**

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

The House Rules for this project:

Are Proposed	<input type="checkbox"/>	
Have Been Adopted and Date of Adoption	<input type="checkbox"/>	
Developer does not plan to adopt House Rules	<input checked="" 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"/>	<p>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:</p> <p>Section 25.b. of the Declaration permits the Developer to amend the Declaration to file the "as built" verified statement (with plan, if applicable) required by Section 514B-34, HRS.</p> <p>Section 21 of the Declaration provides as follows: See attached Exhibit "G"</p>

#### 4. CONDOMINIUM MANAGEMENT

##### 4.1 Management of the Common Elements

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

The initial Condominium Managing Agent for this project is (check one):

<input type="checkbox"/>	Not affiliated with the Developer
<input checked="" type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

##### 4.2 Estimate of the Initial Maintenance Fees

**Estimate of the Initial Maintenance Fees:** The Association will make assessments against your unit to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your unit and the unit may be sold through a foreclosure proceeding. Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit H contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

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

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

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

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

## 5. SALES DOCUMENTS

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

<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u>  1  </u> 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: April 14, 2009 Name of Escrow Company: Island Title Corporation Exhibit <u>  J  </u> 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 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 <u>    </u> .
<input 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.

<u>Type of Lien</u>	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
MORTGAGE	Purchaser's interest may be terminated but in such event, purchaser shall be entitled to the return of his deposit, less escrow's fees and costs

### 5.4 Construction Warranties

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

<p><b>Building and Other Improvements:</b></p> <p>Developer hereby disclaims all express or implied warranties, including without limitation warranties of habitability and fitness for a particular use.</p>
<p><b>Appliances:</b></p> <p>None.</p>

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

Status of Construction:  All three Units were constructed between 1962 and 1964.
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: N/A
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract: N/A

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

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

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

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

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

## 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. Developer's Public Report
2. Declaration of Condominium Property Regime (and any amendments)
3. Bylaws of the Association of Unit Owners (and any amendments)
4. Condominium Map (and any amendments)
5. House Rules, if any
6. Escrow Agreement
7. Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8. Other:

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

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

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

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

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

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

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

- (1) The purchaser has signed the sales contract.
- (2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.
- (3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.
- (4) The purchaser does at least one of the following:
  - (a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project conforms 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, 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, 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 and the exhibits attached to this report 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 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 at least 30 days prior to the anniversary date of the effective date of this report.

MICHAEL J. MISKE, JR., Trustee of the Michael J. Miske,  
Jr. Revocable Living Trust

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

By:

  
\_\_\_\_\_  
Duly Authorized Signatory\*

March 27, 2009  
Date

Michael J. Miske, Jr., as Trustee

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

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

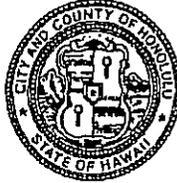
**\*Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

Exhibit "A"

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

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.gov/dpp](http://www.honolulu.gov/dpp) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

MUFI HANNEMANN  
MAYOR



DAVID K. TANOUÉ  
DIRECTOR

ROBERT M. SUMITOMO  
DEPUTY DIRECTOR

2008/EU-23 (JL)

<b>MINOR PERMIT: EXISTING USE PERMIT (EU)</b>	
File Number:	2008/EU-23
Applicant/ Landowner:	Michael Miske
Agent:	Kanoe Camacho
Location:	1735, 1735-A, and 1735-B Ala Amoamo Street - Moanalua
Tax Map Key:	1-1-32: 2
Zoning:	R-5 Residential District
Date Received:	November 17, 2008
Date Accepted:	January 7, 2009

**APPROVAL** is granted to the existing use, three (3) single-family dwellings, in accordance with the application documents [and revised plans Department of Planning and Permitting (DPP) date-stamped February 27, 2009], subject to the following conditions:

1. All work shall be in accordance with approved application documents, the conditions enumerated below and the Land Use Ordinance (LUO) unless otherwise stated by this permit.
2. The Existing Use permit (EU) is only for the continued use, repair, alteration, expansion, relocation, or reconstruction of the existing dwellings. This EU approval does not certify that the existing structures and improvements comply with the current zoning code or other regulations.
3. In accordance with Section 2.100(a) of the LUO, in the event of destruction, uses may be continued and structures may be rebuilt under the approved existing use plan, provided that such restoration is permitted by the Building Code and Flood Hazard Regulations and is started within two (2) years.

4. Only **minor modifications** to the EU plans shall be allowed. Any major modification which may have an adverse impact on surrounding land uses, increases the number of dwelling units, and/or involves the reconstruction and/or expansion of a dwelling(s) which is part of a larger development, shall require the processing of a Cluster Housing Permit.

Any application for a Cluster Housing Permit shall include the written consent of all owners or lessees, including Condominium Property Regime (CPR) owners/lessees.

5. The applicant or owner(s) shall incorporate this EU Permit into the restrictive covenants which run with the land, to serve as notice to all owners and tenants. The draft covenant shall be submitted for review and approval by the DPP. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to the change in any ownership or the issuance of any permits.
6. If the project will be condominiumized, the applicant or owner(s) shall submit a draft copy of the CPR map and documents to the DPP for our review. Future work subsequent to the creation of a CPR may require approval from the homeowners association prior to the start of work. If the EU Permit is incorporated into the CPR documents, a separate declaration of restrictive covenants is not required.
7. All work shall comply with the applicable LUO standard for the underlying zoning district, unless otherwise stated herein:
  - a. A minimum 10-foot setback, for structures shall be required from the common access drive;
  - b. Within the project, the minimum distances between buildings shall be as follows:
    - i) 10 feet between two (2) one-story dwellings
    - ii) 15 feet between a one-story and a two-story dwelling or portion thereof
    - iii) 20 feet between two-story dwellings

If the property is condominiumized, then, buildings and accessory structures shall comply with required yards and height setbacks of the underlying zoning district as measured from limited common element (CPR) lines;
  - c. Maximum building area shall not exceed forty percent (40%) of the original lot area of 26,796 square-feet.
  - d. No future development, including expansion of existing structures on the slopes, shall occur on the hillside portion of the lot.

8. All new work shall be compatible in design with the existing and surrounding structures. Any reconstruction, renovation, alteration or addition to any existing dwelling shall not exceed 2,500 square-feet in total floor area, and shall be in the same general location. **The Director may require the redesign of exterior entrances, stairways, bar areas, including plumbing and electrical systems, to ensure that the number of dwellings is not increased.**
9. A minimum of six (6) parking spaces, two (2) stalls for each dwelling unit, shall be provided prior to the issuance of any building permits subsequent to this approval. Dwelling additions shall comply with the LUO parking regulations. Existing parking spaces within carports or garages shall not be converted into usable floor area (including garage or carport storage areas).
10. Prior to the issuance of any building permits:
  - a. All-weather surfaces shall be provided at all driveway and parking areas.
  - b. A minimum 22-foot aisle width shall be provided for all parking spaces.
11. All existing trees six (6) inches or greater in diameter shall be retained on-site, or replacement landscaping shall be required. All landscaping shall be maintained in a healthy visual condition at all times.
12. Unit 1735-B shall comply with the Affidavit (effective May 23, 2008) required by Building Permit No. 627226 that the structure is maintained as a single-family dwelling containing only one (1) kitchen.
13. The addition, alteration or reconstruction of any dwelling unit shall comply with Honolulu Fire Department (HFD) requirements for access, water, and/or HFD connections, and shall be submitted to the HFD for review and approval prior to issuance of building permits. The HFD requires the following:
  - a. Provide a fire apparatus access road for every facility, building, or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45.72 m) from fire apparatus access as measured by an approved route around the exterior of the building or facility.
  - b. Provide a water supply, approved by the county, capable of supplying the required fire flow for fire protection to all premises upon which facilities or buildings, or portions thereof, are hereafter constructed or moved into or within the county.

On-site fire hydrants and mains capable of supplying the required fire flow shall be provided when any portion of the facility or building is in excess of 150 feet (45.72 m) from a water supply on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building.

- c. Submit civil and construction drawings to the HFD for review and approval.
14. Any modification to the application documents and conditions stated herein shall be subject to approval by the DPP. For good cause, the Director of the DPP may impose additional requirements and/or amend the above conditions.

In accordance with the LUO, any zoning lot within a residential district which has at least twice the required minimum lot size for underlying district may have a maximum of two (2) detached dwellings. If an owner wishes to erect additional dwelling units, the zoning lot shall be subdivided.

The purpose of this EU permit is to recognize the hardship imposed upon uses that were legally established, met applicable zoning requirements at the time the uses and structures were approved, but may not comply with current zoning standards. Residential EU permits apply to uses that are now subject to Cluster Housing. Without this EU approval, the dwellings are considered nonconforming and subject to Section 4.110(d) of the LUO related to nonconforming dwelling units.

The three (3) two-story, single-family dwellings were legally established in the 1960s and comply with the standards of cluster housing within the R-5 Residential District. The land area (26,796 square-feet) exceeds the minimum land area of 15,000 square-feet and the three (3) dwellings do not exceed the maximum density of seven (7) dwellings (one dwelling per 3,750 square-feet of land area) permitted on the site with a cluster housing permit. However, the rear property line abuts the F-1 Federal and Military Zone, and there is about 14,569 square-feet of uphill slope at the rear portion of the site that is undeveloped. The Primary Urban Development Plan Chapter 3.1.1.1 states that development on steep slopes or unstable soils, such as the lower slopes of valley walls, could result in adverse visual impacts or hazardous conditions affecting both natural and urbanized drainage systems. More specifically, existence of unstable soil deposits, and slow moving landslides can cause property damages in the Moanalua Valleys. Based on the unique topography conditions of the site and the three (3) existing dwellings on the level portion of the lot, expansion of the existing dwellings onto the hillside would be inappropriate.

Each dwelling contains a minimum of two (2) covered parking spaces (i.e., garages or carports), with a common driveway access running from the northwest direction towards the east central portion of the lot and ends at the foot of the hillside slope. If any owner wishes to reconstruct the garages or carports, they shall be set back a minimum of 10 feet from the common driveway. Also, there should be a minimum 22 feet aisle width for all new outdoor or common area parking spaces requiring aisles.

If the applicant proposes to increase the number of dwellings on the zoning lot, and/or reconstruct and/or expand a dwelling(s) which is part of a larger development, a Cluster Housing Permit application must be submitted to the DPP. The application must include the signatures of all the landowners and/or lessees. If approved, the Cluster Housing permit may require modification to the existing dwellings, including but not limited to improvements to the exterior building design and landscaping.

Approval of this EU does not substantially limit, impair, or preclude the use of surrounding properties for the principal uses permitted in the underlying district. This assessment includes impacts on traffic flow and control, off-street parking, sewerage, drainage and flooding, utilities, screening and buffering, yards and other open spaces, lot dimensions, height, bulk, and location of structures.

Any party (to the case) wishing to appeal the Director's action must submit a written petition to the Zoning Board of Appeals (ZBA) within 30 calendar days from the date of mailing or personal service of the Director's written decision (ZBA Rules Relating to Procedure for Appeals, Rule 22-2, Mandatory Appeal Filing Deadline). Essentially, the ZBA rules require that a petitioner show that the Director based his action on an erroneous finding of a material fact and/or that the Director acted in an arbitrary or capricious manner, or manifestly abused his discretion. Generally, the ZBA can only consider the evidence previously presented to the Director of Planning and Permitting. The filing fee for appeals to the ZBA is \$200 (payable to the City and County of Honolulu).

Failure to comply with ZBA Rules (Chapter 22, Procedure for Appeals) may result in the dismissal of the appeal. Copies of the ZBA rules are available at the Department of Planning and Permitting. Appeals should be addressed to:

Zoning Board of Appeals  
c/o Department of Planning and Permitting  
650 South King Street, 7th Floor  
Honolulu, Hawaii 96813

If you should have any questions, please call Jenny Lee of our staff at 768-8027.

DKT:nt

G:\JENNY\Existing Use\2008 EU-23

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

Elizabeth Cl. for Director March 5, 2009  
SIGNATURE TITLE DATE

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

**EXHIBIT "B"**  
**1735 ALA AMOAMO STREET**  
Description of Common Elements

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Act. Any such partition or division shall be subject to the prior written consent thereto by the holder(s) of all mortgages on the Units.

The Units are located in the manner shown on the Condominium Map. All Units have access to the existing concrete driveway, as shown on the Condominium Map (the "Driveway"), which provides direct access to Ala Amoamo Street. The common elements consist of the following portions of the Project:

- a. The Land;
- b. Any improvements now or hereafter constructed for roadway access purposes or utilities purposes such as electricity, gas, water, sewer, septic system, telephone, radio and television signal distribution, irrigation and other utilities which serve more than one Unit; and
- c. Any and all elements and facilities naturally in common use or necessary to the existence, upkeep and safety of the Project.

EXHIBIT "C"  
1735 ALA AMOAMO STREET  
Description of Limited Common Elements

The limited common elements appurtenant to each Unit consist of the portion of the land surrounding that Unit set aside for the exclusive use of that Unit, as shown by the lot boundary lines and the dashed lines on the Condominium Map (and designated thereon as "land area"), as follows:

<u>Units</u>	<u>Limited Common Element Land Area</u>
1735	6,606 square feet
1735-A	9,714 square feet
1735-B	10,476 square feet

EXHIBIT "D"  
**1735 ALA AMOAMO STREET**  
Encumbrances Against Title

1. For real property taxes that may be due and owing, reference is made to the Office of the Tax Assessor, City and County of Honolulu.
2. The terms and provisions of that certain Declaration of Condominium Property Regime of 1735 Ala Amoamo Street, as amended from time to time, dated March 27, 2009, filed aforesaid as Land Court Document No. 3845621 on April 7, 2009.
3. The terms and provisions of that certain FIRST AMENDMENT to Declaration of Condominium Property Regime of 1735 Ala Amoamo Street, dated May 27, 2009, filed aforesaid as Land Court Document No. 3862781 on May28, 2009
4. The terms and provisions of that certain Bylaws of the Association of Apartment Owners of 1735 Ala Amoamo Street, as amended from time to time, dated March 27, 2009, filed aforesaid as Land Court Document No. 3845622 on April 7, 2009.
5. That certain Condominium Map No. 1997, a copy of which is on file with the Bureau aforesaid.
6. Excepting and reserving therefrom all artesian and other underground water and rights thereto appurtenant to said premises, as set forth or disclosed by the DEED recorded as Land Court Document No. 243918.
7. That certain ENCROACHMENT AGREEMENT dated February 21, 2008, by and between 1735 Ala Amoamo Family Limited Partnership and Association of Apartment Owners of Moanalua Estates filed in said Office as Land Court Document No. 3716495.
8. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c) of the United States Code or Chapter 515 of the Hawaii Revised Statutes, as contained in the DEED recorded as Land Court Document No. 273358.
9. Existing encroachments along the boundaries of Lot 842, disclosed by Surveyor's Map and Report dated January 19, 2008, prepared by Melvin M. Matsuda, Licensed Professional Land Surveyor, Certificate No. 4723, are as follows: (a) Along the westerly property line (between lots 842 and 834), the edge of a rock wall crosses into Lot 842 from 2 to 7 inches, more or less. Said wall is leaning towards Lot 842; and (b) Along the westerly property line (between lots 842 and 834), a rock wall crosses into Lot 834 from 0 to 2 feet 2 inches, more or less.
10. MORTGAGE (Loan No. 842558), dated February 25, 2008 and recorded as Land Court Document No. 3716417 for the Principal Amount of \$1,000,000.00 between Michael John Miske, Jr., unmarried, as Mortgagor, and "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, "Lender" is Central Pacific HomeLoans, Inc., a Hawaii Corporation organized and existing under the laws of the State of Hawaii, as Mortgagee.



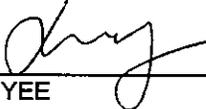
EXHIBIT "F"  
1735 ALA AMOAMO STREET Condominium Project

ENGINEER'S VERIFIED STATEMENT

STATE OF HAWAII )  
 )  
CITY AND COUNTY OF HONOLULU ) ss.

XIANG YEE, being first duly sworn on oath states as follows:

1. That he is a professional engineer registered by the State of Hawaii under Registration No. 9373-S;
2. That he executes this Verified Statement pursuant to Section 514B-84(a)(1), Hawaii Revised Statutes;
3. That he has conducted a site inspection of the 1735 Ala Amoamo Street condominium project ("Project");
4. That based on such inspection, all structural components and mechanical and electrical installations material to the use and enjoyment of the Project appear to be in, at minimum, a condition consistent with their age; and
5. That no representations of any kind are made as to the expected use or life, if any, of the structural components and mechanical and electrical installations material to the use and enjoyment of the Project.

  
\_\_\_\_\_  
XIANG YEE

Subscribed and sworn to before me  
this 17 day of April, 2009.  
  
Notary Public, State of Hawaii  
First Judicial Circuit  
DEBRA R. WILSON  
My commission expires: 9/25/2012

NOTARY PUBLIC CERTIFICATION

Date of Document: N & dtd # Pages: 1

Document Description:

ENGINEER'S VERIFIED STATEMENT

DEBRA R. WILSON Commission No. 80-705

[Print Notary's Name]



\_\_\_\_\_  
Notary Signature

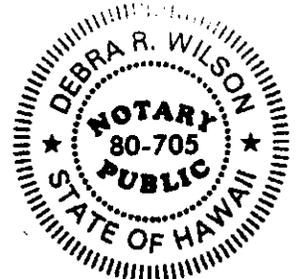


EXHIBIT "G"

Developer's Public Report for Condominium  
Condominium Project Name: **1735 ALA AMOAMO STREET**

Section 21 of the Declaration of Condominium Property Regime, entitled Developer's Reserved Rights, reads as follows:

In addition to any other rights reserved herein, the Developer hereby reserves the right for itself and its agents, for a period of four (4) years after filing in the Office of the Assistant Registrar of deeds or agreements of sale with respect to all Units in the Project in favor of parties not a signatory to this Declaration, unless a different period is set forth in a following subparagraph then for such period, to do the following without the consent of any Unit purchaser or any other person or entity and without any amendment to this Declaration:

a. Developer hereby reserves the right to amend this Declaration, the Bylaws and the Condominium Map, without the approval, consent or joinder of any purchaser of a Unit or any of the persons then owning or leasing any Unit, to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Project or any of the Units, by any institutional lender lending funds on the security of the Project or any of the Units, by any purchaser, insurer or guarantor of loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to purchase, insure or guarantee a Loan made on the security of the Project or any of the Units, or by any governmental agency; provided, however, that except as otherwise provided herein, no such amendment which would substantially change the design, location or size of a Unit shall be made without the consent to such amendment by all persons having an interest in such Unit.

b. Developer hereby reserves the right to grant to any utility company or public or governmental authority or other person or entity rights-of-way and other easements, and the right to modify or amend any existing or newly granted rights-of-way and easements, which are for the benefit of the Project (or any Unit or Units) or which do not materially interfere with the use or materially impair the value of any Unit, over, across, under and through the common elements and limited common elements for access and for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer and/or septic system, drainage and other public services and utilities, and rights to enter for the purpose of installing, repairing, altering and removing such lines and facilities and of trimming any trees in the way thereof.

c. Developer shall have the right to maintain development facilities and conduct sales of Units until deeds or agreements of sale are issued to Unit purchasers with respect to all Units in the Project. Such right shall include, but not be limited to, maintaining model Unit(s), operating a sales and construction office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales; provided, however, that in exercising such right, the Developer shall not materially interfere with the rights of any Unit owner to the use of, or access to, his Unit or any of the limited common elements appurtenant thereto.

d. The Developer shall have the right until deeds or agreements of sale are issued to Unit purchasers with respect to all Units in the Project to enter upon the Land and the Project and carry on such construction and demolition activities as may be necessary in connection with such alteration, modifications and restorations, including, but not limited to, parking and storage of construction equipment and materials, provided that the Developer shall not materially interfere with the rights of any Unit owner to the use of, or access to, his or her Unit or any of the limited common elements appurtenant thereto.

END OF EXHIBIT "G"

EXHIBIT "H"  
ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months =</u>	<u>Yearly Total</u>
1735	\$0 x 12 =	\$0
1735-A	\$0 x 12 =	\$0
1735-B	\$0 x 12 =	\$0

Each purchaser shall become obligated to start paying its maintenance fees commencing upon purchaser's acquisition of the Unit from Developer.

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Electricity

- [ ] common elements only
- [ ] common elements and apartments

Water

Maintenance, Repairs and Supplies

Building

Grounds/Landscaping

Roads/Driveways

Fencing

Insurance

Reserves(\*)

**TOTAL**

**\$0.00 x 12 =**

**\$0**

I, **MICHAEL J. MISKE, JR.**, Trustee, the developer of the condominium project, hereby certifies that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



**MICHAEL J. MISKE, JR., as Trustee**

"Developer"

Date: March 27, 2009

(\*)Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514B-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 1070, Hawaii Administrative Rules, as amended.

Pursuant to §514B-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

EXHIBIT "1"  
1735 ALA AMOAMO STREET Condominium Project  
Summary of Sales Contract

Seller intends to use the standard form Purchase Contract with an Addendum as the form of sales contract for the project.

1. Evidence of Title. Seller shall furnish Buyer evidence of Seller's marketable title to the interest which is to be conveyed to Buyer. If Seller fails to deliver title as herein provided, Buyer has the option to terminate this agreement and have any of Buyer's deposits returned to Buyer. The foregoing shall not exclude any other remedies available to Buyer. Buyer will receive an Owner's standard coverage policy of title insurance at closing: (a) Seller shall pay 60% of the premium to be charged for an Owner's standard coverage policy of title insurance to be issued to the buyer in the amount of the sales price; and (b) Buyer shall pay 40% of such premium and any additional costs relating to the issuance of any extended coverage policy, including a Lender's policy.
2. Risk of Loss. Risk of loss passes to Buyer upon transfer of title or occupancy whichever occurs first.
3. Default. It is expressly understood and agreed: First: In the event Buyer fails to pay the balance of the purchase price or complete the purchase as herein provided, Seller may (a) bring an action for damages for breach of contract; (b) retain the initial deposit and all additional deposits provided for herein, as liquidated damages; and (c) Buyer shall be responsible for any cost incurred in accordance with this contract. Second: In the event Seller fails to perform his obligations as herein provided, Buyer not being in default, Buyer may (a) bring an action against Seller for damages for breach of contract; (b) file and maintain an action against Seller for specific performance of this contract; and (c) Seller shall be responsible for any cost incurred in accordance with this contract. The foregoing shall not exclude any other remedies available to either Seller or Buyer. In the event of default and/or a lawsuit arising out of this contract (including a suit by a REALTOR for commission), the prevailing party shall be entitled to recover all costs incurred including reasonable attorneys' fees. All expenses incurred by escrow shall be deducted from deposited funds prior to any disbursement to the prevailing party.
4. Consent. The obligations of Buyer or Seller hereunder are conditioned upon obtaining those necessary consents of vendors, existing mortgagees, lessors and/or condominium, co-op or other such associations, Buyer or Seller agree to cooperate and take all reasonable action to obtain such consents.
5. Time Is Of The Essence. If either Buyer or Seller for reasons beyond his control cannot perform his obligation to purchase or sell the property by the closing date, then such party by giving escrow written notice prior to the closing date called for in this contract with copies to all parties to this contract, can extend closing for no longer than 30 calendar days to allow performance. Thereafter time is of the essence and the default provisions of paragraph 5 apply. Any further extension must then be agreed to in writing by both parties. There is no automatic right to extend. This provision relates only to the extension of the closing date.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE PURCHASE CONTRACT. THE BUYER MUST REFER TO THE BUYER'S PURCHASE CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PURCHASE CONTRACT, THE PURCHASE CONTRACT WILL CONTROL, NOT THIS SUMMARY.

EXHIBIT "J"  
1735 ALA AMOAMO STREET Condominium Project  
Summary of Escrow Agreement

The Escrow Agreement ("Agreement") between ISLAND TITLE CORPORATION ("Escrow"), and **MICHAEL J. MISKE, JR.**, Trustee of the Michael J. Miske, Jr. Revocable Living Trust, having all powers under said trust, including full power to sell, convey, transfer, exchange, partition, mortgage, lease and otherwise deal with any property of the trust estate, real or personal ("Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

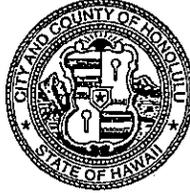
1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.
2. Escrow will receive payments under the sales contracts and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project.
3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing. No disbursements will be made from Buyer's fund until: (a) the Real Estate Commission has issued a Developer's Public Report on the project; (b) Buyer has waived its right to cancel the sales contract; and (c) Seller has notified Escrow that all other requirements of Sections 514B-82 to 514B-93, Hawaii Revised Statutes ("HRS"), have been met. Where sales contracts are entered into, Escrow will disburse funds upon presentation by Seller of Buyer's signed receipt for the Developer's Public Report and with notification by Seller that all of the requirements of Section 514B-82 to 514B-93, HRS, have been met. Escrow will call for payments by the Buyer upon receipt of notice from Seller that any payments are due under sales contract. Any disbursement of funds for project costs prior to closing or prior to completion of the project will be made in compliance with Section 6.4 of the Agreement and the requirements of Section 514B-92 or 514B-93, HRS, as applicable.
4. Escrow will return deposited sums to the Buyer without interest if Seller gives Escrow written notice to return the funds to Buyer, or with respect to a Buyer whose funds were obtained before the issuance of a Developer's Public Report, Escrow receives from the Buyer a written request to cancel the sales contract or after issuance of the Developer's Public Report and Buyer's waiver of his right to cancel the sales contract in accordance with Section 514B-86, HRS, there shall be any pertinent change and/or material change in the project which directly, substantially and adversely affects the use or value of the Buyer's apartment or appurtenant common elements or those amenities of the project available for Buyer's use, of a nature entitling the Buyer to cancel his sales contract pursuant to Section 514B-87, HRS. These funds shall be returned to Buyer less Escrow's cancellation fee, if any, any mortgagee's cancellation fee and all other costs incurred in connection with the Escrow. Any return of funds to the Buyer will be governed by Section 7 of the Agreement.
5. As Escrow's compensation for its performance under this Agreement, Escrow will receive an amount to be determined by Escrow for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. Title insurance will also cost an additional sum.
6. If Buyer defaults under the sales contract and Seller subsequently certifies in writing to Escrow that Seller has terminated the Sales Contract, Escrow shall thereafter treat all funds of the Purchaser under the sales contract as funds of the Seller and not the Purchaser. Upon Seller's request, Escrow shall pay such funds to Seller less any cancellation fee.

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

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

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8000 • FAX: (808) 527-6743  
INTERNET: www.honolulu.gov • DEPT. WEB SITE: www.honolulu.gov

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANOUE  
DEPUTY DIRECTOR

2008/ELOG-1048(EF)

November 18, 2008

Mr. William C. Byrns  
1001 Bishop Street  
ASB Tower, Suite 2650  
Honolulu, Hawaii 96813

Dear Mr. Byrns:

Subject: Condominium Conversion Project  
1735 Ala Amoamo Street  
Tax Map Key: 1-1-032: 002

This is in response to your letter dated April 30, 2008, requesting verification that the structures on the above-mentioned property met all applicable code requirements at the time of construction.

Investigation revealed that the three (3) single-family detached dwellings at 1735B, 1735A, and 1735 Ala Amoamo Street, with at least eight (8) all-weather-surface off-street parking spaces met all applicable code requirements when they were constructed in 1962, 1963, and 1964, respectively, on this 26,796 square-foot, R-5 Residential-District zoned lot.

The three (3) single-family detached dwellings with eight (8) all-weather-surface off-street parking are considered nonconforming dwelling units.

Investigation also revealed that the following are active building permits:

1. Building Permit No. 627226 issued on May 23, 2008, for alteration to 1753B Ala Amoamo Street.
2. Building Permit No. 629065 issued on July 8, 2008, for alteration/repair to 1735 Ala Amoamo Street.
3. Building Permit No. 629066 issued on July 8, 2008, for alteration to 1735A Ala Amoamo Street.

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

**Exhibit "K"**

Mr. William C. Byrns  
Attorney-at-Law  
November 18, 2008  
Page 2

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

Conversion to a condominium property regime (CPR) is not recognized by the City and County as an approved subdivision. CPR delineates ownership; it does not create 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 and Multi-family Code Enforcement Branch at 768-8151.

Very truly yours,



Henry Eng, FAICP, Director  
Department of Planning and Permitting

HE:ft

doc660552

**Exhibit "K"**