AMENDED

DEVELOPER'S PUBLIC REPORT
FOR A CONDOMINIUM

CONDOMINIUM PROJECT NAME	MOKAPU
Project Address	788, 786 and 792 Mokapu Road Kailua, Hawaii 96734
Registration Number	6915 (Partial Conversion)
Effective Date of Report	**July 24, 2012**
Developer(s)	SCOTT RICHARD CARVILL, JULIANNA TOMMERVIK CARVILL, and SCOTT J. LARUE, Trustee of the Scott J. LaRue Revocable Trust, dated April 10, 2008

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.

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.]

SPECIAL NOTICE

This is a condominium project, not a subdivision, and the project does not involve the sale of individual subdivided lots. The land area beneath and immediately appurtenant to each unit is designated a limited common element and is not a legally subdivided lot. The dashed lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

Facilities and improvements normally associated with county approved subdivisions may not necessarily be provided for and services such as county street maintenance and trash collection may not be available for interior roads.

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

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

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General Information On Condominiums

A condominium is a special form of 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	☒ Fee Simple ☐ Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	☒ Yes ☐ No
Fee Owner's Name if Developer is not the Fee Owner	
Address of Project	788, 786 and 792 Mokapu Road Kailua, Hawaii 96734
Address of Project is expected to change because	No change
Tax Map Key (TMK)	(1) 4-4-023:005 and 006
Tax Map Key is expected to change because	Each unit will be assigned a new Tax Key Number
Land Area	38,720 square feet
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	

1.2 Buildings and Other Improvements

Number of Buildings	3
Floors Per Building	2
Number of New Building(s)	2
Number of Converted Building(s)	1
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Wood, concrete, glass and other allied materials

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
788	1	4/3	2,174 sf	359 sf	1st floor lanai	3,335 sf
				102 sf	2nd floor lanai	
				700 sf	garage	
786	1	4/4.5	3,279 sf	404 sf	lanai	4,279 sf
				596 sf	garage	
792	1	4/4	4,330 sf	643 sf	veranda/lanai	5713 sf
				740 sf	garage	

See Exhibit A .

3	**Total Number of Units**

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:	7
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	Unit 786: 2; Unit 788: 2; Unit 792: 3
Attach Exhibit _____ 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.	

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

1.7 Common Interest

Common Interest: 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 _____.

As follows:

Unit 788: 33.3% interest
Unit 786: 33.3% interest
Unit 792: 33.4% interest

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

☐	Swimming pool
☐	Laundry Area
☐	Storage Area
☐	Tennis Court
☐	Recreation Area
☐	Trash Chute/Enclosure(s)
☐	Exercise Room
☐	Security Gate
☐	Playground
☐	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 D .
Described as follows:

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 E .
Described as follows:

1.11 Special Use Restrictions

The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.	
☐	Pets:
☐	Number of Occupants:
☒	Other: See Exhibit F
☐	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 decribed below.
Date of the title report: May 29, 2012
Company that issued the title report: Title Guaranty of Hawaii, Inc.

1.13 Uses Permitted by Zoning and Zoning Compliance Matters

Uses Permitted by Zoning				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
☒	Residential	3	☒ Yes ☐ No	R-10
☐	Commercial		☐ Yes ☐ No	
☐	Mix Residential/Commercial		☐ Yes ☐ No	
☐	Hotel		☐ Yes ☐ No	
☐	Timeshare		☐ Yes ☐ No	
☐	Ohana		☐ Yes ☐ No	
☐	Industrial		☐ Yes ☐ No	
☐	Agricultural		☐ Yes ☐ No	
☐	Recreational		☐ Yes ☐ No	
☐	Other (Specify):		☒ Yes ☐ No	
Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?			☒ Yes ☐ No	
Variances to zoning code have been granted.			☐ Yes ☒ No	
Describe any variances that have been granted to zoning code				

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	☒	☐	☐
Structures	☒	☐	☐
Lot	☒	☐	☐

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:

1.15 Conversions

Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.	☒ **Applicable** ☐ **Not Applicable**

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:

Subject to normal wear and tear commensurate with its age, the building that constitutes Unit 788 appears to be in fair to good structural condition consistent with its age; Subject to normal wear and tear, the electrical and plumbing systems are operable and in fair working order.

Developer's statement of the expected useful life of each item reported above:

See page 18.

List of any outstanding notices of uncured violations of any building code or other county regulations:

Estimated cost of curing any violations described above:

Verified Statement from a County Official

Regarding any converted structures in the project, attached as Exhibit H is a verified statement signed by an appropriate county official which states that either:

(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:
- (i) Any variances or other permits that have been granted to achieve compliance;
- (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
- (iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;

or

(B) Based on the available information, the county official cannot make a determination with respect to the foregoing matters in (A) above.

Other disclosures and information:

1.16 Project In Agricultural District

Is the project in an agricultural district as designated by the land use laws of the State of Hawaii? **If answer is "Yes", provide information below.**	☐ **Yes** ☒ **No**
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? ☐ Yes ☐ No If the answer is "No", provide explanation.	
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? ☐ Yes ☐ No If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.	
Other disclosures and information:	

1.17 Project with Assisted Living Facility

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

2. PERSONS CONNECTED WITH THE PROJECT

2.1 Developer(s)	Name: SCOTT RICHARD CARVILL, JULIANNA TOMMERVIK CARVILL, and SCOTT J. LARUE, Trustee Business Address: 798 Mokapu Road Kailua, Hawaii 96734 Business Phone Number : (808) 261-0089 E-mail Address: scottcarvill@hawaii.rr.com
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).	
2.2 Real Estate Broker	Name: None selected, see page 18 Business Address: Business Phone Number: E-mail Address:
2.3 Escrow Depository	Name: Title Guaranty Escrow Services, Inc. Business Address: 235 Queen Street, 1st Floor Honolulu, HI 96813 Business Phone Number: (808) 521-0211
2.4 General Contractor	Name: Coast Construction Inc. Business Address: 798 Mokapu Road Kailua, Hawaii 96734 Business Phone Number: (808) 330-9000
2.5 Condominium Managing Agent	Name: Self-managed by the association Business Address: Business Phone Number:
2.6 Attorney for Developer	Name: Jeffrey S. Grad Business Address: 841 Bishop Street, Suite 1800 Honolulu, HI 96813 Business Phone Number: (808) 521-4757

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	August 18, 2009	3895678

Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	May 23, 2012	T-8186504A thru T-8186504B

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	August 18, 2009	3895679

Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number

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	2017
Bureau of Conveyances Map Number	

Dates of Recordation of Amendments to the Condominium Map:
May 31, 2012

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	☐	
Have Been Adopted and Date of Adoption	☐	
Developer does not plan to adopt House Rules	☒	

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%	100%
Bylaws	67%	67%

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

☐	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
☒	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 L

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):	
☐	Not affiliated with the Developer
☒	None (self-managed by the Association)
☐	The Developer or an affiliate of the Developer
☐	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 K contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

4.3 Utility Charges to be Included in the Maintenance Fee

If checked, the following utilities are included in the maintenance fee:	
☐	Electricity for the common elements
☐	Gas for the common elements
☐	Water
☐	Sewer
☐	TV Cable
☐	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:	
☒	Electricity for the Unit only
☒	Gas for the Unit only
☒	Water
☒	Sewer
☒	TV Cable
☐	Other (specify)

5. SALES DOCUMENTS

5.1 Sales Documents Filed with the Real Estate Commission

☒	Specimen Sales Contract Exhibit I contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
☒	Escrow Agreement dated: November 12, 2009 Name of Escrow Company: Title Guaranty Escrow Services, Inc. Exhibit J contains a summary of the pertinent provisions of the escrow agreement.
☐	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.

☒	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.
☐	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit ____ .
☒	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.

☒	There are no blanket liens affecting title to the individual units.
☐	There are blanket liens 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

5.4 Construction Warranties

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

Building and Other Improvements:

AS IS

Appliances:

AS IS

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

Status of Construction: Unit 786 was constructed in 2009. Unit 788 was constructed in 2005. Unit 792 was constructed in 2011.
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:
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:

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

☐	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. *If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.*

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):	
☐	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
☐	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):

Box A ☐	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. If Box A is checked, you should read and carefully consider the following notice, which is required by law: **Important Notice Regarding Your Deposits: Deposits that you make under your sales contract for the purchase of the unit may be disbursed before closing of your purchase to pay for project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the project. While the developer has submitted satisfactory evidence that the project should be completed, it is possible that the project may not be completed. If your deposits are disbursed to pay project costs and the project is not completed, there is a risk that your deposits will not be refunded to you. You should carefully consider this risk in deciding whether to proceed with your purchase.**
Box B ☐	The Developer has **not** 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. 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 **Important Notice Regarding Your Deposits** 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, **you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.** (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. You should understand that, although the **Important Notice Regarding Your Deposits** 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.

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.	**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

Website to access rules: 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 30th 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

1. DISCLOSURE RE: NON SELECTION OF REAL ESTATE BROKER. As of the effective date of this Developer's Public Report, the Developer has not executed a listing agreement for the sale of this condominium project with any duly licensed Hawaii real estate broker. Thus, the developer cannot offer to sell or sell any units in this registered condominium project until:

1) the developer executes a listing agreement for the sale of this condominium project,
2) amends this developer's public report to reflect the new information, and
3) delivers this public report and amendment to the prospective purchaser.

The conditions for binding sales contract are listed on pages 16-17 paragraph 5.8.1.

2. MANAGEMENT OF THE PROJECT. The Project consists of only three units and will be self-managed. Accordingly, the Developer has elected that Part VI of Chapter 514B (relating to management) shall not apply to the Project.

3. MANAGEMENT CONFLICTS & DEADLOCKS; DISPUTE RESOLUTION. The Project's Association of Unit Owners and Board of Directors are responsible for management of the Project. Under the Declaration and Bylaws for this Project, any decision of the Project's Association or Board requires the concurrence of both Owners or their designated representatives on the Board, respectively. The Declaration and Bylaws contain no provisions for breaking deadlocks. In the event of conflicts, disputes, or deadlocks between the Owners or their representatives on the Board that cannot be resolved by mutual agreement, the Owners' recourse will be to mediation pursuant to Section 14 of the Project's Declaration and Section 514B-161 of the Act, arbitration pursuant to Section 514B-162 of the Act, or litigation in court. Those methods of dispute resolution can be costly and time-consuming, and where there are disputes between Owners, this management structure can impair the efficient operation of the Project.

4. DEVELOPER'S STATEMENT OF THE EXPETED USEFUL LIFE OF THE CONVERTED STRUCTURE. Subject to normal wear and tear commensurate with its age, the building that constitutes Unit 788 appears to be in relatively good structural condition consistent with its age. In accordance with Section 514B-84(a)(1)(B), HRS, Developer is not making any representations regarding the expected useful life of the structural components and the mechanical and electrical installations of Unit 788.

5. ACTIVE BUILDING PERMITS. The City and County of Honolulu Department of Planning and Permitting letter dated November 5, 2009 (Exhibit H) indicates there are active building permits for the Property. The Developer has closed such active permits and will deliver to any prospective purchaser evidence that such permits have been closed.

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.

SCOTT RICHARD CARVILL, JULIANNA TOMMERVIK CARVILL, and SCOTT J. LARUE, Trustee of the Scott J. LaRue Revocable Trust, dated April 10, 2008

Printed Name of Developer

By: _____ 6-20-12

Duly Authorized Signatory* Date

SCOTT RICHARD CARVILL

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.**

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.

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SCOTT RICHARD CARVILL, JULIANNA TOMMERVIK CARVILL, and SCOTT J. LARUE, Trustee of the Scott J. LaRue Revocable Trust, dated April 10, 2008

Printed Name of Developer

By: _____ 6/20/12
Duly Authorized Signatory* Date

JULIANNA TOMMERVIK CARVILL

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.**

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.

SCOTT RICHARD CARVILL, JULIANNA TOMMERVIK CARVILL, and SCOTT J. LARUE, Trustee of the Scott J. LaRue Revocable Trust, dated April 10, 2008

Printed Name of Developer

By: _____ 6/20/12

Duly Authorized Signatory* Date

SCOTT J. LARUE, 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
Unit Types and Sizes of Units

Section 3.7 of the Declaration, as amended, states:

"3.7 **Description of the Units.** (a) Unit 788 was constructed in 2005. The Unit contains a total of four (4) bedrooms and three (3) bathrooms, living/dining room, family room, kitchen, pantry, laundry area, first floor covered lanai, second floor covered lanai, and garage. The total net living area of the Unit is approximately 2,174 square feet. The approximate areas of the other portions of the Unit include the first floor covered lanai of 359 square feet, second floor covered lanai of 102 square feet, and garage of 700 square feet.

(b) Unit 786 was constructed in 2009. The Unit contains a total of four (4) bedrooms and four and one half (4.5) bathrooms, living room, kitchen, rec room, laundry room, play room, covered lanai, and garage. The total net living area of the Unit is approximately 3,279 square feet. The approximate areas of the other portions of the Unit include the covered lanai of 404 square feet and garage of 596 square feet.

(c) Unit 792 was constructed in 2011. The Unit contains a total of four (4) bedrooms and four (4) bathrooms, great room, two (2) family rooms, kitchen, dining room, pantry, office, laundry room, veranda, lanais and garage. The total net living area of the Unit is approximately 4,330 square feet. The approximate areas of the other portions of the Unit include the veranda and lanai areas of 643 square feet and garage of 740 square feet."

END OF EXHIBIT A

EXHIBIT B
Boundaries of the Units

Section 3.10 of the Declaration states:

"3.10 **Designation and Boundaries of Units.** (a) One freehold estate is designated in each of the three (3) Units within the Project.

(b) Each Unit (unless it is a spatial unit, which is described in (c) below) consists of (1) all footings, floors, foundations, perimeter walls and roofs of the building and all other improvements made located upon the Dwelling Area appurtenant to the Unit; (2) all of the space, fixtures, walls and other improvements located within such footings, floors, foundations, perimeter walls and roofs; (3) all exterior surfaces and finishes of such footings, floors, foundations, perimeter walls and roofs; (4) all decks, lanais, porches, steps, stairs or other improvements physically attached to any such building which is for the exclusive use of such Unit; and (5) all portions of any carport or garage attached to any building or located on the Dwelling Area appurtenant to the Unit and which is for the exclusive use of the Owner of such Unit. A Unit, however, does not include any pipes, wires, ducts, conduits, or other utility or service lines running through a Unit (or limited common element appurtenant to the Unit) which are utilized by or which serve any other Unit.

(c) As to a Unit that does not consist of or contain a building or other structural improvement (such Unit being referred to as a "**spatial unit**"), such shall consist of a column of space, (1) the horizontal boundaries of which shall be defined by metes and bounds of the portion of the Land on which such Unit is located, and (2) the vertical boundaries of which shall be defined by the height of each such vertical section.

(d) The foregoing as initially established or as changed pursuant to Article 19, is referred to as a "**Unit**."

(e) Should the descriptions and divisions set forth in the Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map, however, is intended to show only the layout, location, Unit numbers and dimensions of the Units and elevations of the buildings and is not intended to contain or make any other representation or warranty.

The approximate net living floor areas set forth in the Declaration or on the Condominium Map are based on measurements taken from the interior surface of all perimeter walls."

END OF EXHIBIT B

EXHIBIT C
Permitted Alterations to the Units

Sections 19.1-19.3 and 19.7 and 19.8 of the Declaration:

"19.1 **Definitions of Terms Used in this Article.** Unless the use or context would clearly indicate to the contrary, the terms below are defined as follows:

(a) "**Applicable Laws**" means all federal, state and local laws, statutes, ordinances, codes, rules, regulations, standards, conditions of approval and all legislative, administrative or judicial orders, decrees, requirements, rulings or judgments, which now or in the future may be applicable to the Project or any Unit or to any possession, development, improvement, operation, occupancy, use, enjoyment and other activities relating to the Project.

(b) "**Governmental Entity**" means any governmental or quasi-governmental entity, including but not limited to any department, board, commission, authority, agency, deliberative body or other component or subdivision thereof, now or hereafter constituted with jurisdiction, oversight, policy making, regulatory or implementing authority under or with respect to Applicable Laws.

(c) "**Applicable Declarations and Covenants**" means all recorded agreements and written instruments that now or in the future may be applicable to the possession, development, improvement, operation, occupancy, use, enjoyment and other activities relating to the Project (or any Unit), except that such shall not mean a mortgage or other instrument securing the payment or performance of a loan or other financial obligation.

19.2 **Structural Changes to Units.** Notwithstanding anything to the contrary contained in the Declaration, a Unit Owner may, at any time and from time to time, in the Owner's sole discretion and without the consent of any other Unit Owner, the Association, the Board or other person or entity, (a) improve, renovate, remodel, make additions to, enlarge, remove, replace or restore any structures or other improvements now or hereafter constituting the Owner's Unit or that are located on the Dwelling Area appurtenant to the Owner's Unit, or (b) make or build structures and other improvements upon the Dwelling Area appurtenant to the Owner's Unit. Each of the foregoing is referred to as a "**change**," and collectively may be referred to as "**changes**." Changes are subject to the following:

(a) Changes shall conform and comply with Applicable Laws, including the City and County building codes and land use ordinance ("**LUO**");

(b) All changes to a Unit shall be made within the Dwelling Area which is appurtenant to the Unit, and all structures shall be set back six (6) feet from the boundaries of the Dwelling Area;

(c) No change to a Unit shall be permitted if the effect of such change would be to exceed the Unit's proportionate share of development rights to which the Land would be entitled under the LUO. Such development rights shall include, without limitation, maximum percentage of building lot coverage and floor area and number of dwelling units, as prescribed in the LUO when the change is to be made. For purposes hereof, "**proportionate share**" refers to a fraction having as its numerator the net buildable area of the Dwelling Area appurtenant to the Unit being affected by the change, and the denominator being the net buildable area of all of the Dwelling Areas in the Project. "**Net buildable area**" refers to the area of the Dwelling Area reduced for (A) any easements or rights-of-way for ingress

and egress in favor of Unit Owners other than the Owner making the change, and (B) land area on or over which a building or other structure is not permitted to be built;

(d) All changes shall be paid for by the Owner making the change and, once begun, any construction in connection with the change shall be diligently completed in a manner that will not materially interfere (except on a non-permanent basis while such change is being made) with the use or enjoyment by another Owner of his Unit or its appurtenant Dwelling Area;

(e) During the course of any construction, the Unit Owner making such change shall cause to be maintained at his expense builder's all-risk insurance in an amount not less than the estimated cost of construction. The Association shall be named as an additional insured under the insurance policy, and if requested by the Association, evidence of such insurance shall be deposited by the Unit Owner making the change with the Association;

(f) The Unit Owner making the change may utilize, relocate and realign existing and/or develop additional, central and appurtenant installations for services to the Unit affected by the change for electricity, sewer and other utilities and services and when applicable, may add, delete, relocate, realign, designate and grant easement and rights-of-way over, under and on the common elements as necessary or desirable; provided that such shall not cause any interruption in the service of such utilities to any other part of the Project or otherwise materially interfere with their use by another Unit Owner;

(g) If required under any mortgage affecting the Unit of the Owner making the change, then the consent of the holder of any such mortgage shall be obtained, provided, that the failure to obtain such consent shall not affect the validity of such change;

(h) Upon completion of the change, the Unit Owner making the change shall prepare, sign and record in the Recording Office an amendment to the Declaration and Condominium Map, in accordance with section 20.3.

19.3 **Changes in Boundaries of Dwelling Areas.** (a) The Owners of Units to which are appurtenant contiguous Dwelling Areas may from time to time change the boundaries between such contiguous Dwelling Areas and may re-allocate portions of the Dwelling Areas between or among the Units affected by the change.

(b) To effectuate such change in boundaries, the affected Unit Owners shall sign and record in the Recording Office an amendment to the Declaration and Condominium Map. Such amendment shall not require the consent or joinder of the Declarant, Association, Board, holder of a mortgage or other lien interest, any other Unit Owner or any other person who has or may have a legal or beneficial interest in the Project or a Unit (collectively, "**Interested Third Parties**," and singly, "**Interested Third Party**"). After the amendment is recorded, a true and accurate copy of the recorded amendment shall be delivered to the Board by the affected Unit Owners.

(c) The amendment shall contain (1) a description of the resulting Dwelling Areas appurtenant to each of the Units, (2) a revised Condominium Map depicting the resulting Dwelling Areas, and (3) such other information as the affected Unit Owners deem necessary or appropriate to effectuate the change in boundaries of the Dwelling Areas."

"19.7 **Changes to Common Elements (Exclusive of Limited Common Elements).** Except as to changes to a Unit permitted under the preceding sections of Article 19, changes to the Project different in any material respect may be undertaken by the Association only pursuant to an amendment of the Declaration, signed by or pursuant to vote of all the Unit Owners and accompanied by the written consent of the holders of all liens affecting any of the Units, and in accordance with complete plans and specifications therefor first approved in writing by the Board, and promptly upon completion of such restoration, replacement or construction, the Association shall file such amendment in the Recording Office, together with a complete set of the floor plans of the Project as so altered, certified as built by a licensed architect or engineer.

19.8 **General Provisions applicable to Article 19.** The following provisions apply to each of the preceding sections of Article 19 unless the context and usage would clearly indicate to the contrary:

(a) Certain sections within Article 19 create or reserve rights and benefits for the Declarant or for a Unit Owner. Each of those sections may not be amended without the consent of the benefitted Unit Owner or Declarant (both of which are referred to in this section as a "**Benefitted Owner**");

(b) Under certain sections within Article 19, the Benefitted Owner may proceed without being required to obtain the consent or joinder of any person, including any other Unit Owner or any lien holder, or any other person who may have any interest in the Project or the Land. The Benefitted Parties may (1) sign and deliver (on behalf of all of the Unit Owners and their respective mortgagees, if necessary) applications, petitions, agreements and other instruments which such Benefitted Owner deems necessary or desirable (including without limitation, documents to be filed or recorded with Governmental Agencies, public utility companies or private parties); (2) deliver documents and to take such actions in connection with the foregoing as may be in the discretion of the Benefitted Owner, and delivery of such instrument or the taking of such action is sufficient determination; and (3) amend the Declaration and the Condominium Map to reflect exercise of the rights of a Benefitted Owner under such section of Article 19.

(c) If notwithstanding that a section in this Article 19 does not require the consent or joinder or the taking of other action of a Unit Owner, lien holder or other person having any interest in the Project (collectively, "**Interested Parties**," and singly "**Interested Party**") to the action or change by the Benefitted Owner, but the Act, Applicable Laws, a Governmental Entity, an escrow or title company, permitting entities or public utility providers nonetheless do require the consent or joinder or the taking of action by an Interested Party, then upon the request of the Benefitted Owner, each such Interested Party consents in advance to such action or change being made by the Benefitted Owner and agrees to consent to and join in, as aforesaid, and to sign all instruments or documents necessary or desirable so that the Benefitted Owner may effectuate the change or otherwise do as permitted under the applicable section within Article 19.

(d) If any Interested Party fails to provide such requested written joinder, consent, or take such action, as the case may be, within ten (10) days after request is made by the Benefitted Owner, the Benefitted Owner may sign, deliver or take such action on behalf of such Interested Party. Such shall be accomplished by signature of the Benefitted Owner acting under an irrevocable power-of-attorney in favor of Benefitted Owner from such Interested Party. The acquiring or acceptance of ownership in a Unit or of a mortgage or other lien covering a Unit or of any other interest in the Project or Unit shall be deemed the delivery of a grant of such power of attorney in favor of the Benefitted Owner. Such grant is considered as being coupled with an interest and shall be irrevocable. All costs

associated with obtaining the joinder or consent shall be paid for by the Benefitted Owner, unless the costs are incurred because of an Interested Party's failure to provide its joinder or consent, in which case, all such costs incurred shall be paid for by the Interested Party who shall have failed to provide its joinder or consent.

(e) The rights of a Benefitted Owner granted under a section of Article 19 may be assigned, mortgaged or otherwise be transferred by the Benefitted Owner only in connection with the assignment, mortgage or other transfer of the Unit owned by Benefitted Owner. No amendment to such rights granted to a Benefitted Owner may be made without the consent of the Benefitted Owner.

(f) If any provision of this Article 19 shall be declared to be unlawful or unenforceable, such provision or provisions shall be null and void and be separable from the remaining provisions of this Article 19 and/or this Declaration and shall not affect the enforceability of any other provision of this Article 19 or the Declaration."

END OF EXHIBIT C

EXHIBIT D
Common Elements

Article 4 of the Declaration states:

"One freehold estate is also designated in all the portions of the Project other than the Units. Such are referred to as "**common elements**." The common elements include, but are not limited to:

4.1 **Land**. The Land in fee simple;

4.2 **Utility Lines and Retaining Walls**. Any pipes, wires, ducts, conduits or other utility or service lines, drainage ditches or appurtenant drainage structures and retaining walls (if any), which are located outside the Units and which are utilized for or serve more than one Unit; and

4.3 **Fences and Walls**. Any fences and walls that are located on the boundaries separating the Dwelling Areas appurtenant to each of the Units."

END OF EXHIBIT D

EXHIBIT E
Limited Common Elements

Article 5 of the Declaration, as amended, states:

"5.1 **Generally.** (a) Certain parts of the common elements, referred to as the "**limited common elements,**" are designated and set aside for the exclusive use of certain of the Units, and each Unit has appurtenant thereto exclusive easements for the use of all such limited common elements set aside and reserved for such Unit's exclusive use.

(b) Unless otherwise specified, all costs of every kind pertaining to a limited common element, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be paid for by the Owner of the Unit to which such limited common element is appurtenant.

5.2 **Limited Common Elements for Unit 788.** The limited common elements so set aside and reserved for the exclusive use of Unit 788 are as follows:

(a) The site on which Unit 788 is located, consisting of the land area beneath and immediately adjacent to Unit 788 (including the airspace above such site), as shown and delineated on the Condominium Map as 9,474 square feet (which may be referred to as "Dwelling Area 788"); and

(b) A mailbox designated by Declarant for the use of Unit 788.

5.3 **Limited Common Elements for Unit 786.** The limited common elements so set aside and reserved for the exclusive use of Unit 786 are as follows:

(a) The site on which Unit 786 is located, consisting of the land area beneath and immediately adjacent to Unit 786 (including the airspace above such site), as shown and delineated on the Condominium Map as 10,509 square feet (which may be referred to as "Dwelling Area 786"); and

(b) A mailbox designated by Declarant for the use of Unit 786.

5.4 **Limited Common Elements for Unit 792.** The limited common elements so set aside and reserved for the exclusive use of Unit 792 are as follows:

(a) The site on which Unit 792 is located, consisting of the land area beneath and immediately adjacent to Unit 792 (including the airspace above such site), as shown and delineated on the Condominium Map as 18,737 square feet (which may be referred to as "Dwelling Area 792"); and

(b) A mailbox designated by Declarant for the use of Unit 792.

5.4 **Other Limited Common Elements.** Any other common element of the Project which is rationally related to fewer than all the Units is a limited common element appurtenant to and for the exclusive use of such Unit to which it is rationally related."
Note: The "Dwelling Areas" herein described are not legally subdivided lots.

END OF EXHIBIT E

EXHIBIT F
Special Use Restrictions

Article 9 of the Declaration states:

"9.1 **Permitted Uses.** Each Unit may be occupied and used only for residential purposes by its Owners, their tenants and social guests and for any other purpose permitted by the Land Use Ordinance for the City and County of Honolulu, then in effect.

9.2 **Rental Use.** Unit Owners have the absolute right to lease their Units, provided that any such lease is expressly made subject to the covenants and restrictions contained in the Declaration and the Bylaws.

9.3 **Care and Disturbance.** No Owner will suffer anything to be done or kept in a Unit or elsewhere in the Project which would jeopardize the soundness of the Project, or which will interfere with or unreasonably disturb the rights of other Unit Owners, or which will increase the rate of hazard insurance on the Project or the Units.

9.4 **Use of Common Elements.** The common elements may be used only for the purposes for which they are designed and intended.

9.5 **Maintenance and Painting.** Unit Owners (including any Unit occupants) shall keep their respective Units and the limited common elements appurtenant thereto in a strictly clean and sanitary fashion. Such obligation includes repainting the exterior of each building constituting a Unit, as such becomes reasonably necessary. Colors of paint for repainting the exterior will be as agreed upon between the Unit Owners, and if they fail to agree, then such colors are to be similar to the colors of the exterior immediately prior to such repainting."

END OF EXHIBIT F

EXHIBIT G
Encumbrances Against Title

1. Mineral and water rights of any nature in favor of the State of Hawaii.

2. Designation of Easement "D" (25 feet wide) for canal maintenance, shown on Map 109, as set forth by Land Court Order No. 10932, filed January 22, 1952.

3. Rights of way across Easement "D" in favor of Lot 4-A-1-A-3, as reserved in Deed dated February 6, 1953, filed as Document No. 146810.

4. - AS TO PARCEL FIRST ONLY: -

(A) Designation of Easement (6 feet wide) for electrical purposes, as shown on tax map.

(B) Grant to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. dated July 31, 2009, filed as Document No. 3886505, granting a perpetual easement for utility purposes.

5. - AS TO PARCEL SECOND ONLY: -

Structure position discrepancies as shown on the survey map prepared by Wesley T. Tengan, Land Surveyor, dated June 13, 2005.

6. The terms and provisions contained in the Declaration of Condominium Property Regime for "MOKAPU" Condominium Project, dated August 18, 2009, filed as Land Court Document No. 3895678. Said Declaration was amended by instrument dated May 23, 2012, filed as Document No. 8186504. (Project covered by Condominium Map No. 2017 and any amendments thereto.)

7. The terms and provisions contained in the By-Laws of the Association of Unit Owners, dated August 18, 2009, filed as Document No. 3895679.

8. The terms and provisions contained in the Encroachment Agreement, dated February 15, 2011, filed as Document No. 4052610.

9. - AS TO UNIT 786 ONLY: -

Mortgage dated December 27, 2010, filed as Document No. 4035421.

10. - AS TO UNIT 788 ONLY: -

Mortgage dated June 21, 2005, filed as Document No. 3286791. Said Mortgage was amended by instrument dated June 1, 2010, filed as Document No. 3977322.

11. - AS TO UNIT 792 ONLY: -

Mortgage dated November 8, 2011, filed as Document No. 4111645.

12. Real property taxes due and payable. For more information contact the City and County of Honolulu, Department of Finance, Real Property Tax Assessment.

EXHIBIT H

Letter from the City and County of Honolulu Department of Planning and Permitting

END OF EXHIBIT H

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) 768-6041
DEPT. WEB SITE: www.honoluludpp.org • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR

DAVID K. TANOUE
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

2009/ELOG-2065(LT)

November 5, 2009

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
788 Mokapu Road
Tax Map Key (TMK): 4-4-023: 006

This is in response to your letter dated August 24, 2009, requesting verification that the structures on the above-referenced property met all applicable code requirements at the time of construction.

Investigation revealed that the two-story single-family detached dwelling with four all-weather-surface off-street parking spaces met all applicable code requirements when it was constructed in 2004 on this 19,311-square-foot R-10 Residential-District-zoned lot.

Investigation also revealed the following:

1. On April 6, 2009, Park Dedication (File No.2008/PARK-17) was approved for three dwelling units on TMKs: 4-4-023: 005 and 006.

2. On April 17, 2009, a subdivision (File No.2008/SUB-118) was approved for the proposed consolidation and resubdivision of Lots 461-D-1 and 461-E-1 on Map 212 of Land Application 677 into two lots: Lot A of 18,720 square feet and Lot B of 20,000 square feet. The dwellings are located on Lot B (TMK: 4-4-023: 006).

3. On April 29, 2009, Building Permit No. 641482 was issued for a new swimming pool. This permit is still active.

4. On May 26, 2009, Building Permit No. 642461 was issued for a new two-story single-family detached dwelling located at 790 Mokapu Road. This permit is still active.

5. On August 6, 2009, Building Permit No. 645285 was issued for a new solar photovoltaic system for the dwelling at 790 Mokapu Road. This permit is still active.

6. On September 14, 2009, Building Permit No.646727 was issued for a new solar photovoltaic system for the dwelling at 788 Mokapu Road. This permit is still active.

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

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

David K. Tanoue, Director
Department of Planning and Permitting

DKT:ft

[734614]

EXHIBIT I
Summary of Sale Contract Provisions

The Sales Contract consists of two documents: a Hawaii Association of Realtors (HAR) Standard form "Purchase Contract" ("**Purchase Contract**") and a document attached to the Purchase Contract which is entitled "Special CPR Provisions to the Purchase Contract" ("**Special Provisions**").

The Special Provisions are intended to amend the HAR standard form of Purchase Contract, and unless the context would indicate clearly to the contrary, then in the event of any conflict between a provision contained in the Special Provisions and a provision contained in the Purchase Contract, the provision contained in the Special Provisions will prevail.

1. **Description of the Property to be Conveyed.** Fee simple title to the Apartment, together with the furnishings and appliances, if any, and the undivided interest in the common elements set forth in the Purchase Contract. Title will be conveyed subject to the encumbrances of record.

2. **Purchase Price and Terms.** The purchase price for the Apartment is set forth on page 2 of the Purchase Contract is to be paid in the method and at the times set forth in the Purchase Contract. This may include payment of (a) an initial deposit; (b) an additional cash deposit, if set forth in the Purchase Contract; and (c) the balance of the purchase price is to be paid to escrow by purchaser on or before closing.

3. **Financing of Purchase.** Paragraph C-24 of the Purchase Contract Form (if elected) provides if Buyer desires financing, a loan application must be made within a certain number of days and if Buyer's application is not approved within a certain number of days after the application, then either Seller or Buyer may cancel the Purchase Contract. Upon such cancellation, Buyer's deposits will be refunded by escrow without interest.

4. **Closing Costs.** Closing costs and escrow fees are to be shared in accordance with the Purchase Contract, except that Seller does have the option to require two months' advance payment of Association maintenance fees and a start up expense for the Association of Unit Owners equal to two months' of Association maintenance fees. Buyer's proportionate share of any liability insurance premium, real property taxes, maintenance fees and any other charges with respect to the Property shall be pro-rated between Seller and Buyer as of the date of closing.

5. **Closing.** Seller has agreed to cause the Apartment to be sold to the Buyer within the time period set forth on page 3 of the Purchase Contract.

6. **No Present Transfer and Subordination to Construction Loan.** (a) The Purchase Contract may be subject to existing and future blanket loans, and any security interest now or hereafter obtained by a lender of Seller is or will be prior and senior to any rights of the Buyer arising under the Purchase Contract. This obligation to subordinate the purchaser's right under the Purchase Contract to loans now or hereafter made by the Seller is set forth in Paragraph 4 of the Special Provisions.

(b) Seller may also assign by way of security all of its interest in the Purchase Contract, as collateral for the repayment of the loan and if the Lender acquires the Seller's interest in the Purchase Contract, then the Buyer is obligated to perform the Purchase Contract, and to attorn to and recognize the Lender as the seller under the Purchase Contract.

(c) Notwithstanding that the Purchase Contract may be subordinate to a blanket lien, if the Buyer performs his obligations under the Purchase Contract, then Seller is required to convey the Apartment to Buyer at closing free and clear of any blanket lien.

7. **Seller's Rights to Cancel Purchase Contract.** The Seller may cancel the Purchase Contract with the Buyer if (a) Buyer fails to qualify for a permanent loan (if Paragraph C-24 of the Purchase Contract is selected; (b) Buyer defaults under the Purchase Contract (paragraph 6(b) of the Special Provisions); (c) Buyer dies prior to Closing Date (paragraph 6(a) of the Special Provisions); or (d) the Developer's Public Report shall not have been issued and Buyer shall not have waived his right to cancel (called the "**Effective Date**"). Pursuant to Paragraph 6(b) of the Special Provisions, if Buyer fails to close as required, then in the case only of non-monetary default after ten (10) days following Seller's notice of Buyer's default or otherwise without notice as to monetary defaults, the Seller may cancel the Purchase Contract and all sums previously paid by Buyer will belong absolutely to the Seller as liquidated damages. Additionally, Seller may pursue any other remedy, and all costs, including reasonable attorney's fees, incurred by reason of default by the Buyer shall be borne by the Buyer. Time is the essence of the Sales Agreement.

8. **Rights of Buyer to Cancel the Purchase Contract.** The Buyer has the right to cancel the Purchase Contract under the following conditions:

(a) At any time within thirty (30) days following the date the Public Report is delivered to Buyer. If Buyer so cancels, Buyer will be entitled to receive refund of any deposits. If Buyer does not act within the thirty (30) day period, or if the Apartment is conveyed to the Buyer, Buyer will be deemed to have executed the receipt for the Public Report and to have waived his right to cancel (paragraphs 6.1 and 6.3 of the Special Provisions).

(b) The Buyer may cancel his purchase if there is a material change in the Project which directly, substantially and adversely affects the use or value of the Buyer's Apartment or the amenities available for the Buyer's use (paragraph 7 of the Special Provisions). If so, Buyer will be entitled to receive refunds of any deposits, less escrow cancellation fees and other costs up to $250.

(c) Buyer fails to qualify for permanent financing if Paragraph C-24 of the Purchase Contract has been selected.

9. Paragraph 11 of the Special Provisions provides that the Buyer acknowledges Buyer having received (a) a true copy of the Developer's Public Report including all amendments with an effective date issued by the Real Estate Commission, and that the Developer's Public Report includes the report itself, the Project's recorded declaration and bylaws, house rules if any, a letter-sized condominium project map, and all amendments (provided, that where it is impractical to include a letter-sized condominium project map, the prospective purchaser or purchaser shall have an opportunity to examine the map.) and (b) a notice of the buyer's thirty-day cancellation right on a form prescribed by the Real Estate Commission.

Seller reserves the right to modify the above documents as may be required by law, any title insurance company, or any institutional mortgagee.

The Summary contained in this Exhibit is merely a summary and is not intended to be a substitute for the Buyer's careful review of the Purchase Contract.

END OF EXHIBIT I

EXHIBIT J

Summary of the Material Provisions of the Escrow Agreement

Summary of the Condominium Escrow Agreement between the Developer and Title Guaranty Escrow Services, Inc.

1. **All deposits will be paid to Escrow.** A copy of each Sales Contract and all payments made to purchase a Unit shall be turned over to the Escrow Agent. Any interest earned on funds deposited in escrow shall accrue to the credit of the Developer; except that, if Escrow is requested to establish a separate account for a purchaser, the purchaser shall pay Escrow a fee of $25.00 for each such separate account and shall furnish Escrow the purchaser's social security or federal identification number, and any interest earned on funds deposited in such account shall accrue to the credit of the purchaser.

2. **Conditions to be Met Prior to Disbursement.** No disbursements of funds held in escrow with respect to a sales contract shall be made unless and until the following conditions have been fulfilled:

(a) The Real Estate Commission shall have issued an effective date of the Developer's Public Report on the Project;

(b) The purchaser shall have been given and shall have acknowledged receipt of (i) a copy of said Public Report and (ii) notice of purchaser's thirty-day cancellation right upon a form prescribed by the Real Estate Commission; and

(c) The purchaser shall have waived the right to cancel or be deemed to have the right to cancel, in accordance with Section 514B-86 of the Act; and

(d) The Developer shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract.

At the request of Escrow, Developer's attorney shall delivered a written opinion to Escrow that the foregoing conditions shall have been complied with and the purchaser's sales contract has become effective.

3. **Return of Funds and Documents.** A purchaser shall be entitled to a return of funds and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

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

(c) A purchaser shall have exercised his thirty-day cancellation right to rescind the sales contract pursuant to Section 514B-86 of the Act; or

(d) In the event of a material change in the Project, a purchaser shall have exercised his thirty-day cancellation right to rescind the contract pursuant to Section 514B-87 of the Act.

In any of the foregoing events, Escrow shall, upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from purchaser upon the occurrence of an event described in (c) or (d) above, unless the purchaser has waived or has been deemed to have waived the right to a refund, pay said funds to said purchaser (less a cancellation fee commensurate with the work done by Escrow prior to such cancellation up to a maximum of $250.00) and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held hereunder; provided, however, that no refund shall be made to a purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

4. **Purchaser's Default.** Developer shall give notice in writing to Escrow of the occurrence of each event which initiates an obligation of a purchaser to make a payment to Escrow pursuant to the sales contract as well as notice of the amount and due date of such payment. Escrow shall thereupon promptly give the purchaser notice of the amount and due date of such payment. If the purchaser fails to make such payment to Escrow on or before the due date thereof or if the purchaser fails to perform in any matter which is being handled by Escrow, Escrow shall promptly notify Developer of any such failure on the part of the purchaser. If Developer subsequently certifies in writing to Escrow that Developer 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 purchaser, Escrow shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract as funds of Developer and not as funds of the purchaser. Thereafter, such funds shall be free of the escrow established by Developer. Upon written request by Developer, Escrow shall pay such sums to Developer, less any escrow cancellation fee, shall return to Developer the sales contract of such purchase and any other documents theretofore delivered by Developer to Escrow, and shall return other documents theretofore delivered to Escrow in connection with the purchase of the unit to the person from whom, or entity from which, such documents were received; and, Escrow shall thereupon be released from any further duties or liability hereunder with respect to such funds and such purchaser.

END OF EXHIBIT J

EXHIBIT K
Estimate of the Initial Maintenance Fees

PROJECT: **MOKAPU**
786, 788 and 792 Mokapu Road
Kailua, Hawaii 96734

The Developer of the Project hereby certifies:

1. The estimated maintenance fee for each unit is more fully described on the following attached page.

2. The estimate is based on generally accepted accounting principles.

   Note: Developers disclose that no reserve study was done in accordance with Chapter 514B-148 HRS, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

3. OBLIGATION TO PAY COMMON EXPENSES. A Unit Owner shall become obligated to start paying the Unit Owner's share of common expenses thirty days after receiving written notice from the Developer or their successor.

SCOTT RICHARD CARVILL

JULIANNA TOMMERVIK CARVILL

SCOTT J. LARUE, Trustee of the Scott J. LaRue Revocable Trust, dated April 10, 2008

"Developer"

ESTIMATED INITIAL OPERATING EXPENSES
For Period July 1, 2012 to June 30, 2013
As Prepared by Developer

Estimated Annual Expenses

Ground Maintenance	
* Water/Sewer	$-0-
* Electricity:	$-0-
**Fire/Liability Insurance:	$-0-
Management Fee:	$-0-
Miscellaneous:	$-0-
TOTAL ANNUAL EXPENSES	$-0-
Estimated Monthly Expenses	$-0-
Estimated Monthly Maintenance Fee for Each Apartment:	$-0-

Note: * All utilities will be separately metered or otherwise charged, and the common elements will incur no separate utility charges.

** Fire and Liability insurance is intended to be obtained by each Unit owner for his Unit and share of the common elements.

END OF EXHIBIT K

EXHIBIT L
Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents

Sections 19.4-19.6 of the Declaration state:

"19.4 **Reserved Rights of Declarant to Subdivide the Land and Seek Entitlements.** (a) Notwithstanding anything to the contrary contained in the Declaration, Declarant reserves the right at any time and from time to time until December 31, 2024, in Declarant's sole discretion and without the consent of any of the Interested Third Parties:

(1) To subdivide the Land or portions thereof and/or consolidate and re-subdivide the Land or portions thereof into as many legal lots of whatever size and shape as Declarant may wish;

(2) To change the development entitlements applicable to the Land, portions thereof or lands which have been consolidated with the Land. Such changes may include, without limitation, increasing allowable building lot coverage, floor areas, densities and numbers of permitted dwelling units and changing the permitted uses and other standards for development. (The foregoing (1) and (2) may be referred to as "**Subdivision and Entitlement Rights**").

(b) The following provisions shall apply in connection with Declarant's exercise of Subdivision and Entitlement Rights:

(1) Declarant may obtain all permits or approvals from any Governmental Entity deemed by Declarant to be necessary or desirable, including without limitation, cluster permits, existing use permits, site development plan approvals, variances, use permits, rezoning, amendments to development plans or any amendment to any of the foregoing;

(2) Declarant may obtain easements, licenses and other grants and subdivision approvals deemed by Declarant to be necessary or desirable in order to obtain services for utilities and access purposes over, under and across the Land or portions thereof (even if such portion may be removed from the Project under section 19.6);

(3) Upon the written request of the Declarant, an Interested Third Party shall execute and deliver documents (such as applications and agreements of any kind with any Governmental Entity and any utility provider) and shall take all actions requested by Declarant in connection with exercise of the Subdivision and Entitlement Rights. If an Interested Third Party shall fail to do so promptly after request, then Declarant may act on behalf of the Interested Third Party in executing documents or taking such action.

(4) Declarant shall pay all costs and expenses incurred in connection with the exercise of the Subdivision and Entitlement Rights, unless such costs and expenses are incurred because of the failure of a Unit Owner or an Interested Third Party to perform his obligations under the Declaration. In such latter event, costs and expenses shall be paid for by the person who shall not have performed his or her obligations under the Declaration;

(5) Notwithstanding any provision to the contrary, the exercise of Subdivision and Entitlements Rights shall not affect the layout, location, dimensions or structure of Unit 788 or Unit 790 or the Dwelling Area appurtenant to such Unit;

(6) Declarant may for itself and on behalf of the Interested Owners or any of them sign and deliver all documents (such as applications and agreements of any kind) and take all actions that Declarant may deem necessary or desirable ("**Documents and Actions**"), and the delivery of any such Documents or taking of such Actions shall be sufficient determination. The Documents and Actions may be delivered, taken or entered into with respect to any Governmental Entity, including, without limitation, the City, State of Hawaii and all public or quasi-public agencies or companies that provide or will provide utility services to the Project;

19.5 **Reserved Rights of Declarant to Remove Portions of the Land from the Project**. (a) Right to Remove. If the Land shall have been legally subdivided in accordance with section 19.4, then notwithstanding anything to the contrary contained in the Declaration, Declarant may, without the payment of any consideration and without the joinder of any Interested Third Party, at any time and from time to time until December 31, 2024, delete and remove from the Project one or more of the legal lots created as a result of the subdivision (with or without the Unit or Units located thereon) ("**Removal and Deletion**"), subject to the following :

(1) All costs and expenses in connection with the Removal and Deletion shall be paid for by the Declarant, unless such expenses are incurred because of a Unit Owner's failure to deliver documents or to take such actions as is required under the Declaration, and in such case, the expenses and other costs incurred by the Declarant shall be paid for by the Unit Owner failing to deliver the documents or take the actions;

(2) The Removal and Deletion shall not change the layout, location, dimensions or structure of any Unit or the Dwelling Area appurtenant to any Unit that is owned by an Owner other than the Declarant or successor to the Declarant's Rights by assignment of the Declarant;

(3) In connection with the Removal and Deletion, Declarant may (A) grant easements and other rights for the benefit of the portion of the Land being removed over the common elements (exclusive of limited common elements) of the Project and (B) grant easements and other rights for the benefit of the Units remaining in the Project over the portion of Land being removed from the Project.

(b) Amendment to Declaration and Condominium Map. In connection with the Removal and Deletion, the Declarant shall sign and record in the Recording Office, without the payment of any consideration and without the consent or joinder of any Interested Third Party, an amendment (or amendments) to the Declaration and the Condominium Map and shall deliver to the Board a copy of the recorded amendment to the Declaration and the Condominium Map, which shall contain the following:

(1) A description of the layout, location, dimensions and apartment number of each of the Units remaining in the Project;

(2) A description of the limited common elements appurtenant to each of the Units remaining in the Project and a description of the land and other common elements remaining in the Project;

(3) The percentage of common interest appurtenant to each Unit remaining in the Project if such is changed (which shall be calculated by multiplying by 100 that fraction having one as its numerator and the number of Units remaining in the Project as the denominator, provided that

for "rounding" purposes, the Declarant may assign an unequal share to a Unit selected by the Declarant);

(4) An amended site map depicting the Land, other common elements, the Dwelling Areas and the Units remaining in the Project;

(5) Any additional or revised common and limited common elements and easements which shall thereafter be appurtenant to the remaining Units in the Project or appurtenant to the portion of the Land that is being removed from the Project;

(6) Such other matters that Declarant deems necessary or desirable to effectuate the Removal and Deletion.

(c) Closing upon Removal of a Portion of the Land, including a Unit. If in accordance with (a) above, a portion of the Land shall be removed from the Project ("**Removed Land**"), and the Removed Land shall also include a Unit which is to be removed from the Project ("**Removed Unit**"), then concurrently a closing between or among the Unit Owners shall occur at the Main Office of Title Guaranty Escrow Services (or other escrow company selected by the Unit Owners.) The following shall occur at such closing:

(1) Each of the Owners of Units remaining within the Project ("**Remaining Owner**") (A) shall sign and deliver a conveyance instrument conveying to the Declarant (or other Owner of the Removed Unit) ("**Removing Owner**")the interest of the Remaining Owner in the Removed Land and Removed Unit, together with all improvements situated thereon and all appurtenant rights thereto, but subject to easements, restrictions and covenants of record affecting such Removed Land and Removed Unit, other than the Declaration, Bylaws and Condominium Map, as each may be have been amended and (B) shall cause to be delivered to the Removing Owner(s) a recordable release from any mortgage or other lien made or suffered by the Remaining Owner ("**Remaining Owner's Mortgage**") which encumbers the Removed Unit and/or the Removed Land;

(2) The holder of any Remaining Owner's Mortgage shall sign and deliver an amendment or release of the Removed Land and/or Removed Unit from any such mortgage or lien which encumbers the Removed Land and/or the Removed Unit;

(3) The Removing Owner (A) shall sign and deliver a conveyance instrument conveying to each of the Remaining Owners all rights that such Removing Owner may have in the respective Unit of each such Remaining Owner and in the portion of the Land which shall remain within the Project appurtenant to such Unit, together with all improvements situated thereon and all appurtenant rights thereto, but subject to easements, restrictions and covenants of record affecting such land area, including the Declaration, Bylaws and Condominium Map, as each may have been amended and any mortgage or other lien affecting a Remaining Unit; and (B) shall cause to be delivered to the respective Remaining Owners a recordable release from any mortgage or other lien made or suffered by the Removing Owner ("**Removing Owner's Mortgage**") which encumbers a Remaining Unit and the portion of the Land remaining within the Project;

(4) The holder of any Removing Owner's Mortgage shall sign and deliver an amendment or release from any such mortgage or lien which encumbers a Remaining Owner's Unit and the portion of the Land remaining within the Project.

(d) Closing upon Removal of a Portion of the Land without Removing a Unit. If in accordance with (a), a portion of the Land shall be removed from the Project without also removing a Unit from the Project, then concurrently a closing shall occur as follows:

(1) Each of the Unit Owners shall execute and deliver a conveyance instrument in favor of the Declarant (or its nominee) conveying to such Declarant (or its nominee) any and all interest of such Unit Owner in the Removed Land, together with all improvements situated thereon and all appurtenant rights thereto, but subject to easements, restrictions and covenants of record affecting such land area other than the Declaration, Bylaws and Condominium Map, as each may have been amended;

(2) Each of the Unit Owners shall cause to be delivered to the Declarant (or its nominee) a recordable release from any mortgage or other lien which encumbers the Removed Land being conveyed to the Declarant (or its nominee) by such Unit Owner; and the holder of such mortgage or lien, if any, shall execute and deliver an amendment or release from any such mortgage or lien encumbering the Removed Land.

19.6 **Cancellation of Condominium Project**. If the Land shall have been legally subdivided in accordance with section 19.4 so that there are created legal lots substantially similar to the Dwelling Areas appurtenant to each of the Units ("Subdivided Lots"), Declarant may, without the joinder of any Interested Third Party, at any time and from time to time until December 31, 2024, elect to cancel the Declaration and remove the Project from under Section 514B-47 of the Act ("CPR Cancellation"). Concurrently, a closing between or among the Unit Owners shall occur at the Main Office of Title Guaranty Escrow Services (or other escrow company selected by the Unit Owners). The following shall occur at such closing:

(a) Each of the Unit Owners shall sign and deliver a recordable deed or other conveyance instrument of a Subdivided Lot to the Unit Owner to which such Subdivided Lot is the Unit's appurtenant Dwelling Area ("**Unit Owner Transferee**"). Such conveyance shall also include a release of any interest in improvements situated thereon and all appurtenant rights thereto, but subject to easements, restrictions and covenants of record affecting such land area other than the Declaration, Bylaws and Condominium Map, as each may have been amended;

(b) Each of the Unit Owners shall cause to be delivered to the Unit Owner Transferee a recordable release from any mortgage or other lien which encumbers the Subdivided Lot being conveyed to the Unit Owner Transferee; and the holder of any such mortgage or lien shall sign and deliver an amendment or release from any such mortgage or lien encumbering the Subdivided Lot;

(c) Each of the Unit Owners and the holder of any lien affecting a Unit shall sign and deliver a recordable instrument cancelling the Declaration and removing the Project from under the Act."