

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

CONDOMINIUM PROJECT NAME	398 PUIWA ROAD
Project Address	398 Puiwa Road Honolulu, Hawaii 96817
Registration Number	7210 (partial conversion)
Effective Date of Report	<b>April 9, 2012</b>
Developer(s)	Frank Carlos Jr., Trustee Noreen K. Mokuau, Trustee

**Preparation of this Report**

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

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

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

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

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

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

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

## SPECIAL ATTENTION

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

1. This Public Report does not constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it ensure that all county codes, ordinances and subdivisions requirements have necessarily been complied with.
2. This Project does not involve the sale of individual subdivided lots. The land area beneath and immediate adjacent to each unit as shown on the condominium map is designated as a limited common element and does not represent a legally subdivided lot. The dashed lines on the condominium map merely represent the approximate location of the limited common element land areas appurtenant to each unit.
3. THIS PROJECT CONTAINS ONE (1) EXISTING DWELLING AND AT THE PRESENT TIME TWO (2) "SPATIAL UNITS". THERE ARE A TOTAL OF THREE UNITS IN THIS PROJECT.
4. Each purchaser who wishes to replace a spatial unit with a residential dwelling or other physical structure or improvement will be required to comply with all applicable land use laws, building codes and other city and county laws and ordinances. The Declaration of Condominium Property Regime also contains various restrictions on what may be constructed within the limited common element appurtenant to the spatial unit. At present no additional dwelling is permitted.
5. This Project is located on land in the Conservation District of the State of Hawaii and in the P-1 Preservation District under the City and County of Honolulu. Accordingly, it is the Department of Land and Natural Resources, State of Hawaii, that has jurisdiction over whether an additional residential dwelling can be constructed in such district. Only Unit 398-A was permitted to have a dwelling. The other units would not be able to have a dwelling unless the State Land Use classification (or possible subzone classification) and the City and County of Honolulu zoning classification were changed to permit an additional residential dwelling.
6. Restrictive Covenants. The Project and in particular Unit 398-A is subject to a Declaration of Restrictive Covenants dated March 16, 1992 (the "Declaration"). A copy of the Declaration is attached as Exhibit "H" to this Public Report. The Declaration contains restrictions and covenants concerning the use and construction of the dwelling for Unit 398-A. A prospective purchaser should carefully review the terms of the Declaration.

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## **General Information On Condominiums**

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

**1. THE CONDOMINIUM PROJECT**

**1.1 The Underlying Land**

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	
Address of Project	398 Puiwa Road, Honolulu, Hawaii 96817
Address of Project is expected to change because	
Tax Map Key (TMK)	TMK: (1) 2-2-042-086
Tax Map Key is expected to change because	CPR numbers may be assigned to each unit.
Land Area	35.81 acres
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	

**1.2 Buildings and Other Improvements**

Number of Buildings	1 building, 2 spatial units
Floors Per Building	2 (Unit 398-A)
Number of New Building(s)	0
Number of Converted Building(s)	1
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Concrete, wood, glass, and other allied building 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
398-A	1	2/3 1/2	2,910	816/234/473	deck/entry/ carport	4,433
398-B	1	0/0	0	0.841 acre		0.841 ac
398-C	1	0/0	0	33.968 acres		33.968 ac
See Exhibit <u>    A    </u> .						

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

**1.4 Parking Stalls**

Total Parking Stall in the Project:	6
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	2
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 page 18.
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**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):  No additional dwellings are allowed at present. See Sections 15.0 and 21.0 of Declaration.
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**1.7 Common Interest**

<u>Common Interest:</u> Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by unit owners. The common interest for each unit in this project, as described in Declaration, is:
Described in Exhibit _____
As follows:
398-A                    33 1/3%
398-B                    33 1/3%
398-C                    33 1/3%
Total                    100.00%

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

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

**1.9 Common Elements**

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

Described in Exhibit B \_\_\_\_\_.

Described as follows:

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 B \_\_\_\_\_.

Described as follows:

**1.11 Special Use Restrictions**

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

<input checked="" type="checkbox"/>	Pets: Domestic pets are permitted. Bylaws, Art. V, Section 3.A(10).
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: See Declaration of Restrictive Covenants attached as Exhibit H.
<input type="checkbox"/>	There are no special use restrictions.

**1.12 Encumbrances Against Title**

An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

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

Date of the title report: February 10, 2012

Company that issued the title report: First American Title Co., Inc.

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

Uses Permitted by Zoning				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
<input checked="" type="checkbox"/>	Residential	1	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	P-1
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Other (Specify): Spatial	2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	P-1
Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code			See page 18 and Exhibits G and H	

**1.14 Other Zoning Compliance Matters**

Conforming/Non-Conforming Uses, Structures and Lots			
<p>In general, a non-conforming use, structure or lot is a use, structure or lot that was lawful at one time but that does not now conform to present zoning requirements. Under present zoning requirements, limitations may apply to extending, enlarging or continuing the non-conformity and to altering and repairing non-conforming structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.</p> <p>If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.</p> <p>A purchaser may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure or lot.</p>			
	Conforming	Non-Conforming	Illegal
Uses	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Structures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>If a non-conforming use, structure or lot exists in this project, this is what will happen under existing laws or codes if the structure is damaged or destroyed:</p> <p>Only Unit 398-A has a structure. As per the Declaration of Restrictive Covenants dated March 16, 1992, the dwelling may be reconstructed in the event it is damaged or destroyed.</p>			

**1.15 Conversions**

<p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>	<p><input checked="" type="checkbox"/> <b>Applicable</b></p> <p><input type="checkbox"/> <b>Not Applicable</b></p>
<p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units:</p> <p>Unit 398-A was built in 1992. See Exhibit F.</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p> <p>No statement is made as to the useful life of Unit 398-A.</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p> <p>None</p>	
<p>Estimated cost of curing any violations described above:</p> <p>Not Applicable</p>	

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

**1.16 Project In Agricultural District**

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

**1.17 Project with Assisted Living Facility**

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

## 2. PERSONS CONNECTED WITH THE PROJECT

<b>2.1 Developer(s)</b>	<p>Name: Frank Carlos, Jr., Trustee Noreen K. Mokuau, Trustee</p> <p>Business Address: 398 Puiwa Road Honolulu, Hawaii 96817</p> <p>Business Phone Number : (808) 595-7765</p> <p>E-mail Address: palani.elua@gmail.com</p>
<p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p>	
<b>2.2 Real Estate Broker</b>	<p>Name: None selected at this time.</p> <p>Business Address:</p> <p>Business Phone Number:</p> <p>E-mail Address:</p>
<b>2.3 Escrow Depository</b>	<p>Name: First American Title Company, Inc.</p> <p>Business Address: 1177 Kapiolani Blvd. Honolulu, Hawaii 96814</p> <p>Business Phone Number: (808) 536-3866</p>
<b>2.4 General Contractor</b>	<p>Name:</p> <p>Business Address:</p> <p>Business Phone Number:</p>
<b>2.5 Condominium Managing Agent</b>	<p>Name: None, self-managed by Association of Unit Owners</p> <p>Business Address:</p> <p>Business Phone Number:</p>
<b>2.6 Attorney for Developer</b>	<p>Name: Michael H. Sakai</p> <p>Business Address: 201 Merchant Street, Suite 902 Honolulu, Hawaii 96813-2977</p> <p>Business Phone Number: (808) 531-4171, ext 31</p>

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

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

#### 3.1 Declaration of Condominium Property Regime

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	February 7, 2012	T-8087321

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number

#### 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	February 7, 2012	T-8087322

#### 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	2139
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map:	

**3.4 House Rules**

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

The House Rules for this project:

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

**3.5 Changes to the Condominium Documents**

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

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

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

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	<p>Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House Rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows:</p> <p>Developer reserves the right to make amendments to the Declaration, Bylaws and Condominium Map (1) to file an as-built certificate of architect; (2) to obtain any permits that may be necessary in re-build a structure in the event of destruction; and (3) in order to correct typographical errors and to comply with Chapter 514B Hawaii Revised Statutes and with applicable law (4) to grant easements; make corrections to the Project Documents; and to make changes to comply with applicable law. See Section 16.0 of the Declaration.</p> <p>Developer further reserves the right to apply for and change the State Land Use classification and sub-zone and also the present zoning classification of the Project.</p>

#### 4. CONDOMINIUM MANAGEMENT

##### 4.1 Management of the Common Elements

<b>Management of the Common Elements:</b> The Association of Unit Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.	
The initial Condominium Managing Agent for this project is (check one):	
<input type="checkbox"/>	Not affiliated with the Developer
<input checked="" type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

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

<b>Estimate of the Initial Maintenance Fees:</b> The Association will make assessments against your unit to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your unit and the unit may be sold through a foreclosure proceeding. Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.
Exhibit ____ contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

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

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

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

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

NOTE: At present only Unit 398-A has utility service.

## 5. SALES DOCUMENTS

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

<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u>D</u> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: March 2, 2012 Name of Escrow Company: First American Title & Co. Exhibit <u>E</u> contains a summary of the pertinent provisions of the escrow agreement.
<input checked="" type="checkbox"/>	Other: Declaration of Restrictive Covenants dated March 16, 1992

### 5.2 Sales to Owner-Occupants

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

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

### 5.3 Blanket Liens

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

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

<u>Type of Lien</u>	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage	Purchaser's contract would be terminated. Purchaser deposits would be refunded.

### 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: None by Developer.
Appliances: None by Developer.

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

<p>Status of Construction:</p> <p>Unit 398-A was completed in 1992.</p>
<p>Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.</p>
<p>Completion Deadline for any unit not yet constructed, as set forth in the sales contract:</p>
<p>Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:</p>

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

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

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

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

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

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

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

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

## 5.7 Rights Under the Sales Contract

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

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

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

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

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

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

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

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

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

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

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

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

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

- (b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or
- (c) Closes the purchase of the unit before the 30-day cancellation period expires.

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

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

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

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

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

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

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

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

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

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

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

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

### Item 1.5 Boundaries of the Unit:

Each unit shall include its entire structure, if any, and the limited common element land area appurtenant to such unit. The boundary of each unit with a structure is the exterior finished surfaces of the units' perimeter frame, walls, roofs, foundations, lanais, railings, windows and frames, doors, beams, and post, if any. For spatial units the boundary is established by the vertical planes along the boundaries of the unit extending twenty-five (25) feet above ground level. This will change upon construction of any physical improvement.

### OTHER INFORMATION:

**MAINTENANCE FEES.** All utilities are separately metered to Unit 398-A and Developer believes that separate or individual homeowners insurance policies will be available to each purchaser of a unit. Based on the foregoing the Developer believes that there will not be a need for any maintenance fees. Certain improvements such as portions of the driveways that are subject to common use may require expenditures in the future for repairs and/or replacement. Developer believes that such expenditures will likely be treated as a special assessment rather than having the Association collect fees from the purchasers on a monthly basis. Each purchaser will be responsible for the maintenance, repair and upkeep of his or her own unit which includes the land area that is deemed a limited common element that is appurtenant to the unit. The Declaration further provides that until such time that Units 398-B and 398-C are improved, that only Unit 398-A will be responsible for the driveway easements.

**ROCKFALL.** Rocks and boulders have fallen into the yards and dwellings in the Nuuanu area. The Developer was recently notified of a rock (approximate dimensions of 12" x 10" x 9") that fell into an adjoining property located at 369 Puiwa Road, which was probably from the Project. Because of this rock fall, the Developer intends to have a slope reconnaissance done for that portion of the Project above the properties located at 369 and 375 Puiwa Road. To investigate the entire Project of 35.81 acres would be extremely difficult. The results of the slope reconnaissance will be provided to each prospective purchaser. However, each purchaser must conduct its own inspection and investigation to determine if there may be any hazardous situations concerning rocks, boulders, and trees. Portions of the Project include very dense vegetation and large trees. The Project's land area goes up to the top of the mountain ridge. Each unit owner is responsible and liable for the limited common land area of a unit which includes any safety measures to prevent rock fall from the area of a unit and the maintenance and trimming of trees.

**ZONING: RESERVED RIGHT TO CHANGE LAND CLASSIFICATION AND ZONING.**

The following is contained in Section 21.0 of the Declaration:

a. Notwithstanding anything to the contrary contained in the Declaration and/or the Bylaws, Developer reserves the right at any time and from time to time until December 31, 2027, in Developer's sole discretion and without the consent of any unit owner, the Association, the Board, any holder of a mortgage or other lien interest or any other person or entity who has or may have a legal beneficial interest in the Project or a unit (other than Developer) (collectively "Interested Third Parties", and singly, "Interested Third Party"):

(1) To apply for and change the State Land Use classification, any sub-classification, sub-zone or designation, and the City and County zoning classification (collectively the "Land Use Classification") for any unit and its appurtenant limited common element land area, or any portion thereof; and

(2) To change development entitlements applicable to any unit, its appurtenant limited common element land area or portion thereof, and the Project. Such changes may include, without limitation, changing the permitted uses and other standards for development (collectively the "Development Rights").

b. The following provisions shall apply in connection with the Developer's exercise of the Development Rights:

(1) Developer may only exercise such rights with respect to units that it owns, and its successors and permitted assigns. Developer may assign its reserved rights in this Section 21.0 to any grantee/purchaser of a unit. Such assignment may be included in the conveyance document for a unit or by a separate instrument which shall be duly recorded in the Office of the Assistant Registrar, Land Court, State of Hawaii. Upon such assignment the assignee shall have all of the rights and obligations contained in Section 21.0 of the Declaration (but only respect to the specific unit(s) described in said assignment);

(2) Developer may obtain all permits or approvals from the State Land Use Commission, the Department of Land and Natural Resources, State of Hawaii, the Department of Planning and Permitting, City and County of Honolulu, and any other governmental authority or agency (collectively the "Government Entities") deemed by Developer to be necessary or desirable, including without limitation, site development plan approvals, variances, use permits, rezoning, amendments to development plans or amendments to any of the foregoing;

(3) Developer may obtain and make easements, licenses and other grants and approvals deemed by Developer to be necessary or desirable in order to obtain services for utilities and access purposes over, under and across any existing easement shown on the Condominium Map or portions thereof;

(4) Upon the written request of the Developer, a unit owner and any Interested Third Party shall execute and deliver documents (such as applications, agreements and consents of any kind with any Government Entities and any utility provider) and shall take all actions requested by Developer in connection with the exercise of the Development Rights. If a Unit owner or other Interested Third Party shall fail to do so promptly after request, then Developer may act on behalf of the unit owner or other Interested Third Party in executing documents or taking such action;

(5) Developer shall pay all costs and expenses incurred in connection with the exercise of the Development Rights, unless such costs and expenses are incurred because of the failure of a Unit owner or other Interested Third party to perform his obligations under this 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 this Declaration; and

(6) Developer may for itself and on behalf of Unit owners or other Interested Third Parties or any of them sign and deliver all documents (such as applications and agreements of any kind) and take all actions that Developer may deem necessary or desirable ("Documents and Actions"). The Documents and Actions may be delivered, taken or entered into with respect to any Government Entities, including without limitation, the State, City and all public or quasi-public agencies or companies that provide or will provide utility services to the Project.

c. Notwithstanding the foregoing, Developer and its successors and assigns, may not exercise any Development Rights that would interfere with the use of any legal existing improvements, nor the rebuilding, repair and/or renovation of such existing improvements.

REAL ESTATE BROKER. In the event Developer retains the use of a real estate broker to sell one or more units in the Project, they will file the listing agreement with the Real Estate Commission and obtain an amendment to the Developer's Public Report to reflect who the broker is.

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.

FRANK CARLOS, JR., TRUSTEE and NOREEN  
K. MOKUAU, TRUSTEE

Printed Name of Developer

By:

  
Duly Authorized Signatory\*

March 5, 2012

Date

FRANK CARLOS JR. TRUSTEE, Owner/Developer

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"

### Description of Units

The Project is hereby divided into the following three (3) freehold estates:

a. Unit 398-A. Unit 398-A consists of one freehold estate containing a residential structure consisting of 2 bedrooms, a den, a TV room, living room/dining room, kitchen, 3 bathrooms, a wash room, covered deck, open deck and a carport. The net living area of this unit is approximately 2,910 square feet, the deck areas are approximately 816 square feet, the entry area is approximately 234 square feet and the carport is approximately 473 square feet. This is a two story dwelling with the carport located on the ground level and the living area located on the upper level.

b. Unit 398-B. Unit 398-B consists of one freehold estate consisting of a spatial unit which has been designated for separate ownership, the horizontal boundaries (footprint) of which is the same as the limited common element boundary of Unit 398-B as described and located in the Condominium Map. The height and/or vertical limit of the unit is the horizontal plane that is twenty-five (25) feet above the finished grade of the surface area enclosed by the horizontal boundaries of the spatial unit. This unit has a gross area of 0.841 acre. A physical structure (which includes a dwelling) as further described in Paragraphs 7.0, 15.0, and 21.0 of this Declaration may be constructed on this spatial unit if permitted by law. Note: As of the date of this Declaration a dwelling is not a permitted structure on this spatial unit.

c. Unit 398-C. Unit 398-C consists of one freehold estate consisting of a spatial unit which has been designated for separate ownership, the horizontal boundaries (footprint) of which is the same as the limited common element boundary of Unit 398-C as described and located in the Condominium Map. The height and/or vertical limit of the unit is the horizontal plane that is twenty-five (25) feet above the finished grade of the surface area enclosed by the horizontal boundaries of the spatial unit. This unit has a gross area of 33.968 acres. A physical structure (which includes a dwelling) as further described in Paragraphs 7.0, 15.0, and 21.0 of this Declaration may be constructed on this spatial unit if permitted by law. Note: As of the date of this Declaration a dwelling is not a permitted structure on this spatial unit.

## EXHIBIT "B"

### Common Elements

The common elements of the Project and which the units have immediate access to include:

- a. The land in fee simple, including any surface improvements such as concrete driveway and rock walls located upon Easement AU-1 and the easements for access and utilities described in Exhibit "A" and the Condominium Map.
- b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, drainage, hot and cold water and like utilities which services more than one unit and any easements for such utility services, if any.
- c. The common easements for drainage and all common or shared installations for underground utilities including electricity, water (including both the water meter and submeter, if any), telephone, and cable television which run upon or under the limited common or common elements, if any.
- d. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project including any easements for utilities and for ingress and egress to and from Puiwa Road.

### Limited Common Elements

The land area delineated and designated in the Condominium Map as limited common elements are limited common elements of a unit and consist of the following:

- a. Unit 398-A. The land area surrounding and under Unit 398-A is a limited common element of Unit 398-A and is for the exclusive use of Unit 398-A and consists of approximately 1.001 acre (net area of 0.898 acre), subject, however to Easement AU-1 for access and utility purposes in favor of Units 398-B and Unit 398-C and Easement TME-1 for trash, mailbox, and electric meter purposes in favor of Units 398-B and 398-C, as shown on the Condominium Map.
- b. Unit 398-B. The land area surrounding and under Unit 398-B is a limited common element of Unit 398-B and is for the exclusive use of Unit 398-B and consists of approximately 0.841 acre (net area of 0.781 acre), subject, however to Easement AU-2 for access and utility purposes in favor of Unit 398-C as shown on the Condominium Map.
- c. Unit 398-C. The land area surrounding and under Unit 398-C is a limited common element of Unit 398-C and is for the exclusive use of Unit 398-C and consists of approximately 33.968 acres.
- d. Any fences, walls or utility systems or lines which are located within the limited common land area and which services or benefits only one unit shall be deemed a limited common element of such unit.

EXHIBIT "C"

Encumbrances Against Title

1. Any and all rights of the applicant to water rights appurtenant to the land herein described, or the rights to any easements appurtenant thereto in or upon adjoining or other lands in the vicinity for the free flowage of water in certain auwais located therein have not been determined in the matter of the registration of this land, but have been expressly excluded from any such determination.

2. The terms and provisions contained in the Agreement recorded in the Bureau of Conveyances, State of Hawaii, in Book 386, Page 450.

3. Easement "44" (area 2,034 square feet) for water purposes, shown on Map 11, as set forth by Land Court Order No. 26520, filed December 7, 1966.

4. A Grant of Easement for drainage purposes, in favor of the City and County of Honolulu, a Municipal Corporation, filed as Land Court Document No. 480355.

5. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Declaration filed March 17, 1992, as Land Court Document No. 18969176.

6. Condominium Map No. 2139 filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii.

9. Covenants, conditions and reservations (deleting therefrom any restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin) as set forth in the Declaration of Condominium Property Regime 398 Puiwa Road, dated February 7, 2012, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. T-8087321.

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Bylaws of the Association of Unit Owners dated February 7, 2012, filed in said Office, as Document No. T-8087322.

11. For Real Property Taxes that may be due and owing reference is made to the Department of Finance, City and County of Honolulu.

## EXHIBIT "D"

### Summary of Sales Contract

The Sales Contract contains the purchase price, description and location of the unit and other terms and conditions under which a Purchaser will agree to buy a unit in the Project.

Among other things, the Sales Contract:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Purchaser will pay the purchase price.
2. Identifies the escrow agent and states that purchaser's deposit will be held in escrow until the Sales Contract is closed or canceled.
3. Requires that Purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Permits the Developer without the consent or approval of a purchaser to modify the Declaration, Bylaws Condominium Map or other documents provided that purchaser may cancel the Sales Contract and obtain a refund if such modification:
  - a. substantially and materially impairs the use and enjoyment of the unit;
  - b. substantially and materially alters the arrangement of the rooms or usable space of a unit or building;
  - c. renders unenforceable a purchasers' loan commitment;
  - d. increases the purchaser's share of common expenses or maintenance fees;
  - e. reduces the obligations of Developer of common expenses on unsold units.
5. Provides that the Developer is selling the units in "AS-IS WHERE-IS" condition. This means that the Developer is not making any warranties or representations with respect to the unit and Project.
6. If purchaser dies (any one of them) prior to closing, Developer has the right to return purchaser's funds, less any escrow cancellation fees and cost, and cancel the Sales Contract.
7. Provides that the closing cost shall be paid as follows:
  - a. By purchaser: title insurance, title report, drafting of unit deed and any note and mortgage, purchaser notary fees, recording fees, one-half of escrow fees, and also a start fee for common expenses, if any.
  - b. By Developer: Developer notary fees, conveyance taxes and one-half of escrow fees.
8. Provides the following remedies, in the event of default under the Sales Contract:

by purchaser:

- a. Developer may bring an action against purchaser for breach of contract;
- b. Developer may retain initial deposit;
- c. Purchaser shall be responsible for expenses incurred.

by Developer:

- a. Purchaser may bring an action against Developer for breach of Contract and for return of all deposits;
- b. Developer shall be responsible for expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

9. Provides that purchaser may not assign his/her interest in the Sales Contract without the prior written consent of Developer.

The Sales Contract contains various other provisions which purchaser should become acquainted with. If there is a conflict between the terms of this summary and the Sales Contract, the latter shall control.

EXHIBIT "E"

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Escrow is First American Title Company, Inc. Under the Escrow Agreement dated March 2, 2012, these things will or may happen:

(a) Developer or Escrow will let purchasers know when payments are due and all monies received from a purchaser will be deposited in Escrow. Any interest earned on the deposits will belong to Developer.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement specifies when purchaser funds may be disbursed upon closing of a sale. The conditions include:

i) Escrow receives the purchasers' signed "Receipt for Public Report(s) and Notice of Right to Cancel";

ii) Escrow receives a certification from the Developer that the Sales Contract is effective and that the rescission right requirements in favor of purchasers have been complied with by the Developer; and

iii) The unit deed conveying the unit to the purchaser has been recorded in the Bureau of Conveyances.

(d) The Escrow Agreement says under what conditions a refund will be made to a purchaser. Refunds can occur under the following situations:

i) If Purchaser elects to cancel the transaction in accordance with the "Receipt for the Public Report and Notice of Right to Cancel". The Receipt provides that purchasers may cancel the Sales Contract and purchaser is the Receipt is mailed or sent by telegram to Developer before (1) the unit is conveyed to purchaser or (2) midnight of the 30th day after delivery of the Public Report(s) to me, whichever is earlier.

ii) The Developer and purchaser agree to terminate the Sales Contract;

iii) if the Developer exercises any right to cancel the transaction which it may have reserved.

NOTE: If a transaction is cancelled, the purchaser must return all documents to the Developer.

(e) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract. If a purchaser defaults, all deposits previously placed into Escrow will be forfeited by purchaser and Escrow may release such funds to Developer. See paragraph 11 of Escrow Agreement.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted. If there are any conflicts between the terms of this summary and the Escrow Agreement, the latter shall control.

EXHIBIT "F"

**STATEMENT OF REGISTERED PROFESSIONAL ENGINEER  
AS TO CONDITION OF  
STRUCTURE AND MECHANICAL/ELECTRICAL INSTALLATIONS**

Real Estate Commission  
Department of Commerce and Consumer Affairs  
State of Hawaii  
Honolulu, HI 96813

RE: 398 Puiwa Road Condominium Project  
398 Puiwa Road, Unit 398-A, Honolulu, Hawaii 96817  
TMK (1) 2-2-042-086

The undersigned hereby declares that he has made a visual observation of the single family dwelling (Unit 398-A) at the aforementioned address, which is a proposed conversion of the existing structure into a condominium project. Without having made any invasive examination of covered components, the undersigned makes the following report:

1. On or about December 16, 2011, I visited the residential dwelling at the above referenced property. According to public records, the two story home was built around 1992.
2. There was no visible evidence of unstable structural components and any damages to structural materials appeared to have been repaired.
3. The mechanical installations consisted of water and sewer lines. All supply piping, valves, and waste piping observed, appeared to be in operating condition.
4. The electrical installation consisting of meter box, circuit breakers, and electrical service entry into the dwelling, appeared to be in operating condition.
5. No representation is made regarding the expected useful life of the structural components and mechanical and electrical installations.

The undersigned further states that this report may not be relied upon by any purchaser of a unit in the Project. Given the age of the structure each prospective purchaser should hire and retain his own professional home inspector or other professional person to evaluate the condition of the dwelling.

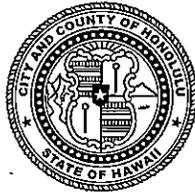
DATED: Honolulu, Hawaii, this 18th day of January, 2012.

  
William Dean Alcon  
Registered Professional  
Engineer, Reg. 5988-C

EXHIBIT "G"

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.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)



PETER B. CARLISLE  
MAYOR

DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

2011/ELOG-1978(VV)

October 20, 2011

Michael H. Sakai, Esq.  
Attorney at Law  
902 City Financial Tower  
201 Merchant Street  
Honolulu, Hawaii 96813-2977

Dear Mr. Sakai:

Subject: Condominium Conversion Project  
398 Puiwa Road  
Tax Map Key: 2-2-042: 086

This is in response to your letter dated September 2, 2011, requesting verification that the structure on the above-referenced property met all applicable code requirements at the time of construction.

Investigation revealed that the above-referenced 35.81-acre parcel is zoned P-1 Preservation and is regulated by the State of Hawaii. However, research revealed that Building Permit No. 316912 was issued on April 10, 1992 for a one-story single-family detached dwelling. Attached is the building permit for the dwelling.

If you have any questions regarding this matter, please contact Alex Sugai of our Commercial and Multi-Family Code Enforcement Branch at 768-8152.

Very truly yours,

A handwritten signature in black ink, appearing to read "David K. Tanoue", is written over a horizontal line.

David K. Tanoue, Director  
Department of Planning and Permitting

DKT:ft

Attachment

[886088]

EXHIBIT "H"

JOHN WAIHEE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621  
HONOLULU, HAWAII 96809

WILLIAM W. PATY, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

KEITH W. AHUE  
MANABU TAGOMORI  
Dan T. Kochi

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
PROGRAM  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

REF:OCEA:JN

MAY 6 1991

File No.: OA-12/3/90-1017A  
Doc. No.: 0640E

Mr. Kerry M. Komatsubara  
Central Pacific Plaza  
220 South King Street  
Suite 600  
Honolulu, Hawaii 96813

Dear Mr. Komatsubara:

Subject: Conservation District Use Application for Amendment  
to Previously Approved CDUA No.: OA-1017 for the  
Construction of a Single Family Residence

We are pleased to inform you that your Conservation District Use Application for single family residential use including the driveway, garage and landscaping at Nuuanu Valley, Honolulu, Oahu, TMK: 2-2-42: 86 was approved on April 26, 1991 subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;

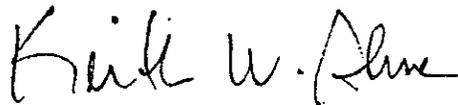
3. The applicant shall comply with all applicable Department of Health Administrative Rules;
4. The single family dwelling shall never be used for rental or any other commercial purposes;
5. The applicant shall submit a paint color selection for exterior surfaces to our Department prior to the approval of the construction plans;
6. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not infer approval required of other agencies. Compliance with Condition 1 remains the responsibility of the applicant;
7. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use;
8. That all exposed and disturbed ground shall be revegetated within thirty (30) days unless otherwise provided for in a plan on file with and approved by the Department;
9. That the applicant shall implement appropriate measures to control erosion and sedimentation during and after construction;
10. That appropriate measures shall be exercised to prevent construction materials, debris, petroleum derivatives from entering nearby drainage areas;
11. If, by chance, historic remains such as artifacts, shell or charcoal deposits, burials are found during construction, the applicant must be aware that work must be stopped in the immediate area and our State Historic Preservation Office be contacted at 587-0015 immediately. Our office will assess the situation and make recommendations for mitigative action if needed;
12. The applicant shall provide documentation (i.e. book and page number) that this approval has been placed in recordable form as a part of the deed instrument prior to submission for approval of subsequent construction plans;

- 13. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 14. That all representation relative to mitigation set forth in the accepted Environmental Assessment for this proposed use are hereby incorporated as conditions of this approval;
- 15. That failure to comply with any of these conditions shall render this Conservation District Land Use Application null and void; and
- 16. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit by signing in the space provided below and returning a copy to us.

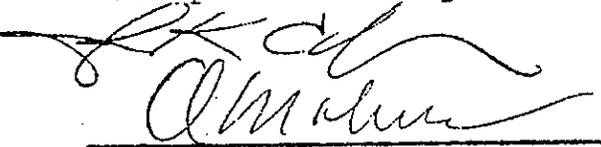
Should you have any questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 548-7837.

Very truly yours,



William W. Paty

Receipt acknowledged



Applicant's Signature

cc: Board Member  
Land Agent  
County Planning Department  
DOH/OEQC/EC/OHA/DBED

L-295

STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED

MAR 17. 1992 12:17 PM

Doc No(s) 1896916

on Cert(s) 323.677

/s/ S. FURUKAWA  
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

Land Court System

Regular System

Return by Mail ( ) Pick up ( )

FRANK CARLOS JR  
47-439 MAHAKEA RD.  
KAUHOE, HAWAII 96744

RECORDATION REQUESTED BY: )  
Frank Carlos, Jr. and Noreen Kehaulani Mokuau )  
Husband and Wife )  
RETURN TO: )  
Frank Carlos, Jr. and Noreen Kehaulani Mokuau )  
47-434 Mahakea Road )  
Kaneohe, Hawaii 96744 )  
RETURN BY MAIL )

Tax Map Key Number 2-2-42:86

DECLARATION OF RESTRICTIVE COVENANTS

WHEREAS, Frank Carlos, Jr. and Noreen Kehaulani Mokuau, husband and wife, hereinafter referred to as "Owners", whose residence address is 47-434 Mahakea Road, Kaneohe, Hawaii, 96744, are owners of that certain parcel of land designated Lot L, being more specifically identified by Oahu Tax Map Key No. 2-2-42:86, being that same parcel of land acquired by them, and being more fully described in, that certain Warranty Deed dated December 30, 1988, and recorded in the Bureau of Conveyances of the State of Hawaii with the assistant register of the Land Court as Document No. 1604346, Certificate of Title No. 323677.

WHEREAS, said land has been zoned by the State of Hawaii within the Conservation Zone, Limited Subzone, and as such is subject to the statutes, rules and regulations of the State of Hawaii, as administered by its Department of Land and Natural Resources (DLNR); and



WHEREAS, by an approval dated April 26, 1991, DLNR has granted the owners permission to construct on said land, subject to certain restrictive covenants, which are attached hereto and incorporated herein as Exhibit "A", which are to be declared and recorded as Restrictive Covenants running with said land;

NOW THEREFORE, the owners declare that said land shall be subject to the Restrictive Covenants contained in Exhibit "A", that said covenant shall run with the land and shall be binding upon the owners, their heirs, executors, administrators, assigns, successors and grantees, for as long as said land shall be subject to the Conservation Zoning of the State of Hawaii, and the breach of any covenant may be enjoined, abated or remedied by appropriate proceedings by the State of Hawaii.

IN WITNESS WHEREOF, the owners have executed this instrument on this 16 day of MARCH, 1992.



Frank Carlos, Jr.



Noreen Kehaulani Mokuau



STATE OF HAWAII )  
 ) SS.  
COUNTY OF Honolulu )

On this 16 day of March, 1992,  
before me personally appeared Frank Carlos Jr and  
Noreen Kehaulani Mokuau

to me known to be the persons described in and who executed the  
foregoing instrument and acknowledged that they executed the same  
as their free act and deed.

*Lulu K. Wilson*  
Notary Public, State of Hawaii

My commission expires:  
9-25-92



EXHIBIT "A"

RESTRICTIVE COVENANTS  
FOR TAX MAP KEY NO 2-2-42:86  
Nuuanu, Oahu, HAWAII

1. All applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended shall be complied with.
2. The owners, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under Conservation District Use Application, No.: OA-1017, as amended (permit) or relating to or connected with the granting of said permit.
3. The owners shall comply with all applicable Department of Health Administrative Rules.
4. The single family dwelling shall never be used for rental or any other commercial purposes.
5. The owners shall submit a paint color selection for exterior surfaces to the Department of Land and Natural Resources (Department) prior to the approval of the construction plans.
6. Before proceeding with any work authorized by the Board of Land and Natural Resources (Board), the owners shall submit four (4) copies of the construction plans and specifications to the Chairperson of the Board or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the owners. Plan approval by the Chairperson of the Board does not infer approval required of other agencies. Compliance with condition 1 remains the responsibility of the owners.
7. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use.
8. That all exposed and disturbed ground shall be revegetated within thirty (30) days unless otherwise provided for in a plan on file with and approved by the Department.
9. That the owners shall implement appropriate measures to control erosion and sedimentation during and after construction.

Exhibit "A" - Tax Map Key No 2-2-42:86 Huuanu, Oahu, HAWAII

10. That appropriate measures shall be exercised to prevent construction materials, debris, petroleum derivatives from entering nearby drainage areas.
11. If, by chance, historic remains such as artifacts, shell or charcoal deposits, burials are found during construction, the owners must be aware that work must be stopped in the immediate area and the State Historic Preservation Office be contacted at 587-0015 immediately. This office will assess the situation and make recommendations for mitigative action if needed.
12. The owners shall provide documentation (i.e. book and page number) that the approved permit has been placed in recordable form as a part of the deed instrument prior to submission for approval of subsequent construction plans.
13. That in issuing the approved permit, the Department and Board has relied on the information and data which the owners have provided in connection with their permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
14. That all representation relative to mitigation set forth in the accepted Environmental Assessment for this proposed use are hereby incorporated as conditions of the permit.
15. That failure to comply with any of these conditions shall render this amended Conservation District Land Use Application No.: 0A-1017, null and void.
16. Other terms and conditions as prescribed the Chairperson of the Board.