



REAL ESTATE COMMISSION

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
P. O. Box 3469
Honolulu, Hawaii 96801

CONDOMINIUM PUBLIC REPORT

MAKALEHA HEIGHTS CONDOMINIUM
(fka JJD PARTNERSHIP CONDOMINIUM)
Kapahi Road, Kawaihau, Kapaa
Kauai, Hawaii

Registration No. 2597 (Partial Conversion)

Issued: September 2, 1992
Expires: October 2, 1993

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of August 10, 1992, and is issued by the Commission for informational purposes only. It represents either approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

Type of Report:

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

 X **FINAL:** The developer has legally created a condominium and has filed complete information
(white) with the Commission.
 [] No prior reports have been issued
 [XX] Supersedes all prior public reports
 [] Must be read together with _____

 SUPPLEMENTARY: Updates information contained in the
(pink) [] Prelim. Public Report dated _____
 [] Final Public Report dated _____
 [] Supp. Public Report dated _____

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

[] Required [X] Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

[] No prior reports have been issued by the Commission.

[X] Changes made are as follows:

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*****
*   SPECIAL NOTICE:
*
*   1. This Public Report does not constitute an approval of
*   the project by the State of Hawaii Real Estate
*   Commission, or any other government agency, nor that
*   all County Codes, Ordinances and subdivision require-
*   ments have been complied with.
*
*   2. This project does not involve the sale of individual
*   subdivided lots. The dotted lines on the Condominium
*   Map (Exhibit A) are for illustration purposes only.
*
*   3. Facilities and improvements normally associated with
*   County approved subdivisions, may not necessarily
*   be provided for and services such as County street
*   maintenance, enhanced water facilities, fire service,
*   and trash collection will not be available for
*   interior roads.
*
*   4. Read Exhibit I (Letter from County of Kauai)
*   with care.
*
*   THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW*
*   THE DOCUMENTS FOR FURTHER INFORMATION WITH REGARD TO THE *
*   FOREGOING.
*****

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CHANGES FROM PRELIMINARY TO FINAL PUBLIC REPORT:

- | <u>Page</u> | <u>Description of Changes</u> |
|-------------|---|
| 1..... | Change of Report from Preliminary to Final. |
| 2a..... | Information added to clarify changes. |
| 6..... | Escrow changed from Title Guaranty to T.I. of Hawaii. |
| 7..... | Insertion of recording information for condominium documents. |
| 15..... | Title Report updated. |
| 17..... | Escrow Agreement updated. |
| 20..... | Changed to Final. |

- Exhibit A - Replaced by Revised Map (revised on May 15, 1992).
- Exhibit B - Name of project changed.
- Exhibit C - Name of project changed; square footages of each unit changed.
- Exhibit E - Square footages of each unit changed.
- Exhibit F - Added and updated information used.
- Exhibit H - 1st page changed to reflect 33 1/3% costs per unit

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GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "*Condominium Property Act*" (Chapter 514A, Hawaii Revised Statutes) must be followed.

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

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

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

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

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

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

Operation of the Condominium Project

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

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

SUMMARY OF THE CONDOMINIUM PROJECT

Interest to be Conveyed to Buyer:

- Fee simple interest in an apartment and an undivided feehold interest in the common elements.
- Leasehold interest in an apartment and an undivided leasehold interest in the common elements.
- Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

Types of Project:

- 1. New Building(s) Conversion
 Both New Building(s) and Conversion
- 2. Residential Commercial Ohana
 Mixed Residential and Commercial Agricultural
 Other _____
- 3. High Rise (5 stories or more) Low Rise
- 4. Single or Multiple Buildings
- 5. Apartment Description

<u>Apt. No.</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Storage Shed(s), Lanai/Patio (sf)</u>
A	1	2/1	768	112 Lanai 768 Carport/Storage
B	1	3/3	1690	650 Carport/Storage & Guestroom
C	1	3/2	1000	254 Lanai 276 Carport/Storage

Total Apartments: 3

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

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

6. Parking:

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>6</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
Total Parking Stalls	<u>6</u>

7. Recreational amenities:

NONE

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: JOHN FRANCIS WEHRHEIM
Name
P.O. Box 3600
Business Address
Lihue, HI 96766

Phone: (808) 245-9601
(Business)

Names of officers or general partners of developers who are corporations or partnerships:

Real Estate Broker: BALI HAI REALTY, INC.
Name
P.O. Box 930
Business Address
Hanalei, HI 96714

Phone: (808) 826-7244
(Business)

Escrow: T.I. OF HAWAII, INC.
Name
Four Waterfront Plaza, Suite 300
500 Ala Moana Blvd.
Business Address
Honolulu, HI 96813

Phone: (808) 526-3571
(Business)

General Contractor: Owner-Builder
Name

Business Address

Phone: _____
(Business)

**Upon compliance with all applicable condominium management laws.

Condominium Managing Agent: **Self-managed by Association of
Name Apartment Owners

Business Address

Phone: _____
(Business)

Attorney for Developer: STEVEN R. LEE
Name
2959 Umi Street, Suite 300
Business Address
Lihue, HI 96766

Phone: (808) 246-1101
(Business)

**II. CREATION OF THE CONDOMINIUM;
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

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

The Declaration for this condominium is:

Proposed
 Recorded - Bureau of Conveyances - Document No. 92-089621
Book _____ Page _____
 Filed - Land Court - Document No. _____

Amendment date(s) and recording/filing information:

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

The Condominium Map for this condominium project is:

Proposed
 Recorded - Bureau of Conveyance Condo Map No. 1675
 Filed - Land Court Condo Map No. _____

Amendment date(s) and recording/filing information:

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

The Bylaws for this condominium are:

Proposed
 Recorded - Bureau of Conveyances - Document No. 92-089622
Book _____ Page _____
 Filed - Land Court - Document No. _____

Amendment date(s) and recording/filing information:

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

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

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

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

The percentages for individual condominium projects may be more than the minimum set by law.

2. **Developer:**

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

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

4. Permitted Uses by Zoning:

	<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>		<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>
<input type="checkbox"/> Commercial	_____	_____	<input type="checkbox"/> Industrial	_____	_____
<input checked="" type="checkbox"/> Residential	<u>3</u>	<u>Yes</u>	<input type="checkbox"/> Agricultural	_____	_____
<input type="checkbox"/> Timeshare/Hotel	_____	_____	<input type="checkbox"/> Recreational	_____	_____
<input type="checkbox"/> Other: <u>Please see page 18 for further explanation.</u>					

Is/Are this/these use(s) specifically permitted by the project's declaration or bylaws?

Yes No

5. Special Use Restrictions:

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

Pets: _____

Number of Occupants: _____

Other: Special Uses outlined in Declaration of Protective Covenants and House Rules

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0 Stairways 0 Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)</u>	<u>Storage Shed(s), Lanai/Patio (sf)</u>
<u>A</u>	<u>1</u>	<u>2/1</u>	<u>768</u>	<u>112 Lanai</u> <u>768 Carport/Storage</u>
<u>B</u>	<u>1</u>	<u>3/3</u>	<u>1690</u>	<u>650 Carport/Storage</u> <u>& Guestroom</u>
<u>C</u>	<u>1</u>	<u>3/2</u>	<u>1000</u>	<u>254 Lanai</u> <u>276 Carport/Storage</u>

Total Apartments: 3

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

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

Boundaries of Each Apartment: The boundaries of each apartment shall be the outer surface of the entire building and the inner surfaces of each building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed as part of the apartment, the same being deemed common elements.

Permitted Alterations to Apartments:

As allowed by Kauai County zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime and the Condominium Map (Exhibit A) will be required to disclose actual improvements as a matter of public record.

7. Parking Stalls:

Total Parking Stalls: 6

	Regular		Compact		Tandem		TOTAL
	covered	open	covered	open	covered	open	
Assigned (for individual units)	6						6
Guest							
Unassigned							
Extra Available for Purchase							
Other:							
Total Covered & Open	6						

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

* When residences are constructed; otherwise, stalls are not required.

[] Exhibit _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

[X] There are no recreational or common facilities.

[] Swimming pool

[] Storage Area

[] Recreation Area

[] Laundry Area

[] Tennis Court

[] Trash Chute

[] Other: _____

9. Present Condition of Improvements

(For conversions of residential apartments in existence for at least five years):

a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

Unit B is a 27-year old residence and appears to be in satisfactory condition structurally, mechanically and electrically. Unit B has an expected useful life of 20 years.

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

Unit B was constructed in accordance with all County of Kauai building codes and municipal regulations at the time of its construction and has no violations of such codes and regulations.

10. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

1. **Common Elements:** Common Elements are those parts of the condominium project intended to be used by all apartment owners. They are owned jointly by all apartment owners.

Exhibit E describes the common elements.

As follows:

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

There are no limited common elements in this project.

The limited common elements and the apartments which may use them are:

described in Exhibit E

as follows:

The portion of land set aside for the use of each owner of a unit as set forth in Exhibit A, subject to the roadway and utility easement, if any.

NOTE: Land areas referenced herein are not legally subdivided lots.

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

Exhibit C describes the common interests for each apartment.

As follows:

E. **Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property.

Exhibit F describes the encumbrances against the title contained in the title report dated June 16, 1992 and issued by FIRST AMERICAN TITLE INSURANCE CO.
Developer represents that since that date there have been no further encumbrances.

Blanket Liens:

A blanket lien is a mortgage on a condominium project that secures a construction loan. It is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Purchase Money Mortgage	If foreclosed, Buyer's deposit will be refunded and contract will be cancelled.

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

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

The initial managing agent for this condominium is:

[] not affiliated with the Developer.

[] the Developer or the Developer's affiliate.

[X] self-managed by the Association of Apartment Owners.

[] other _____

G. Estimate of Initial Maintenance Fees:

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided to each apartment.

Exhibit H contains a schedule of maintenance fees and maintenance fee disbursements.

H. Utility Charges for Apartments:

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

Not applicable

Electricity

Television Cable

Gas

Water & Sewer

Other _____

I. Construction Warranties:

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

1. Building and Other Improvements:

NONE, other than the statutory 1-year warranty on new construction which applies only to Units A and C.

2. Appliances:

NONE

J. Status of Construction and Estimated Completion Date:

All construction is presently complete. Units A and C were built in March, 1992. Unit B was built in 1962.

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

NONE

L. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract

Exhibit B contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated May 19, 1992

Exhibit D contains a summary of the pertinent provisions of the escrow contract.

Other Registration Forms

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

This is a condominium project, not a subdivision. Therefore, units purchased are not subdivided lots. You should conduct your own investigations and ascertain the validity of information provided.

Please remember that issuance of this Report does not mean the Real Estate Commission has approved the project.

The County of Kauai Planning Department has advised that, in order to process the necessary permits for construction on a Unit, authorization from at least 75% of the legal and equitable ownership of the entire project shall be required, consistent with the Declaration of Condominium Property Regime, the Bylaws, and the Declaration of Protective Covenants and House Rules, sometimes referred to as the "project documents."

Except as limited specifically by the project documents, all uses permitted in the Residential Zone are allowed. With reference to page 10 of this report, specifically the permitted uses of buildings and other improvements, structures shall only be occupied and used for residential and associated uses, and those uses permitted under the County of Kauai Comprehensive Zoning Ordinance.

Please see the advisory letter from the Kauai County Planning Department attached as Exhibit I.

A buyer should understand that development and use of the properties shall comply with all County Codes and Ordinances. If County of Kauai facilities are not already in place, the prospective purchaser is advised that owners in the project will not necessarily receive the same County benefits as owners of approved subdivided lots and that owners who develop their properties later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

Buyer's Right to Cancel Sales Contract:

A. Rights Under the Condominium Statute:

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

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

Final Report, Supplementary Report to a Final Report: Sales made by the Developer are binding if:

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

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

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

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

B. Rights Under the Sales Contract:

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other Declaration of Protective Covenants and House Rules

If these documents are not in final form, the buyer should ask to see the most recent draft.

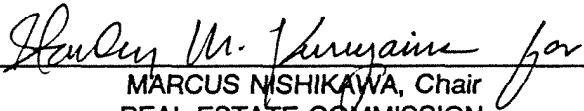
Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107) are available at the Department of Commerce and Consumer Affairs, 1010 Richards Street, P. O. Box 541, Honolulu, HI 96809.

This Public Report is part of Registration No. 2597 filed with the Real Estate Commission on February 18, 1992.

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

yellow paper stock white paper stock pink paper stock

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary public Report is issued or unless the Commission issues an order extending the effective period for the report.



MARCUS NISHIKAWA, Chair
REAL ESTATE COMMISSION
STATE OF HAWAII

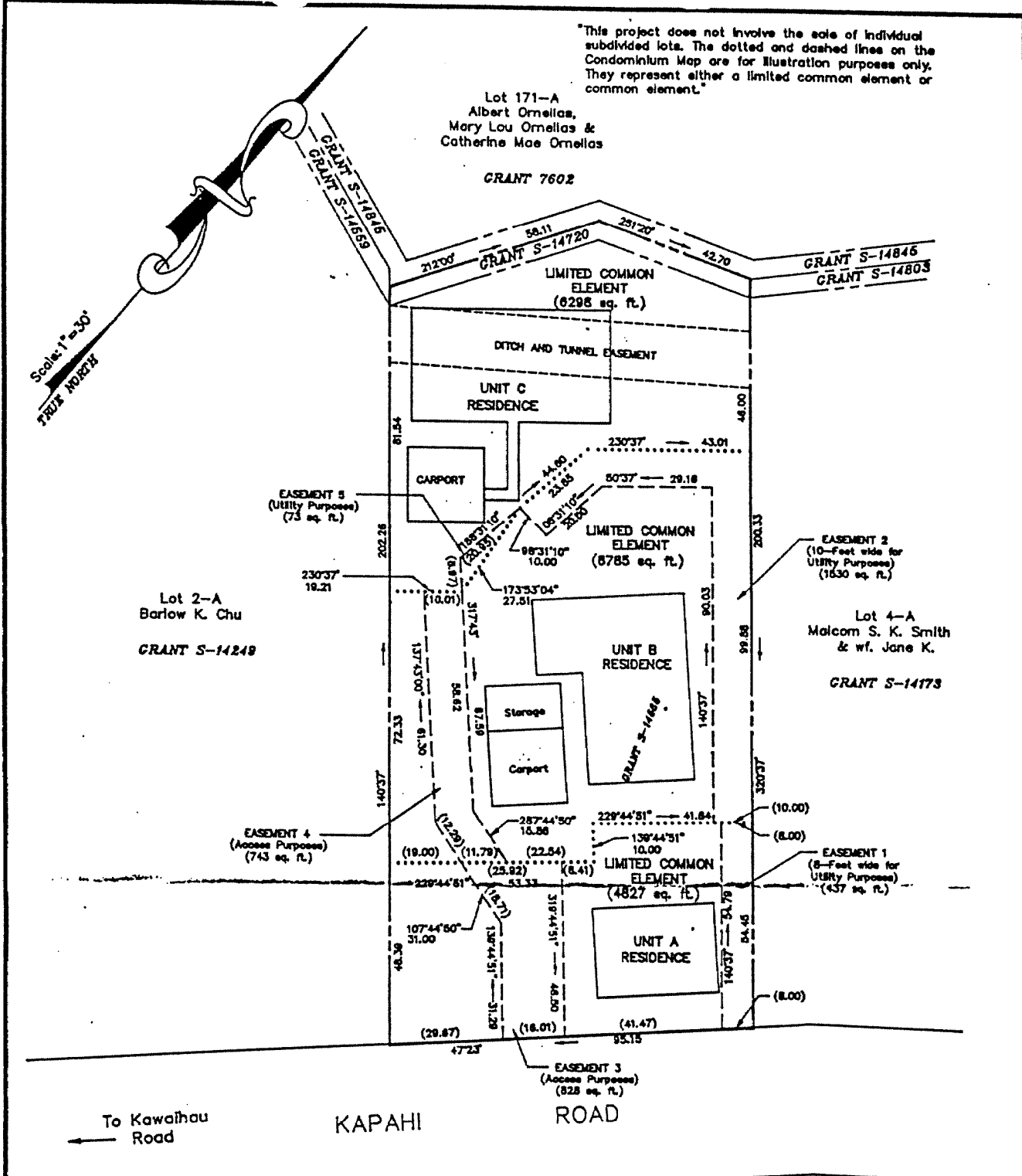
Distribution:

Department of Finance, County of Kauai
Planning Department, County of Kauai
Federal Housing Administration

EXHIBIT A

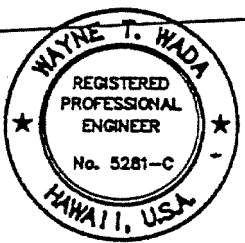
"This project does not involve the sale of individual subdivided lots. The dotted and dashed lines on the Condominium Map are for illustration purposes only. They represent either a limited common element or common element."

Scale: 1" = 30'
780X 1000078



To Kawaihau Road

KAPAHI ROAD



MAKALEHA HEIGHTS CONDOMINIUM
MAP SHOWING UNITS A TO C, INCLUSIVE
BEING LOT 3-A
Being Also Grants S-14565 and S-14720
Kapaā, Kawaihau, Kauai, Hawaii

THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION

Wayne T. Wada
Signature

Owner: John Wehrheim
TMK: 4-6-32:05
Date: February 15, 1999

EXHIBIT B
SUMMARY OF SALES CONTRACT

The MAKALEHA HEIGHTS Purchase Agreement, (the "contract") contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. The method of payment of the purchase price to the escrow agent, subject to other terms.
2. The closing date for the purchase.
3. Whether at the time of execution of the contract, a final public report has been issued.
4. The terms and conditions of the sale which include, among other provisions, the following:
 - (a) That Purchaser will receive a copy of the final public report for the project.
 - (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.
 - (c) After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Purchaser shall not have the right to rescind the contract.
 - (d) Purchaser has received a copy of the Escrow Agreement for the Project.
 - (e) If Purchaser defaults, Seller may cancel the contract or bring legal action against Purchaser to force sale or obtain money damages.
 - (f) The unit the Purchaser is purchasing will be shown on a file plan map prior to closing, and will have the right to cancel if it is different from that shown on the Exhibit A.
 - (g) That a deed conveying clear title will be given at closing, subject to certain obligations.
 - (h) The Purchaser agrees to give future easements if reasonably required for the project.
 - (i) The purchaser will accept the Unit "AS-IS".
 - (j) The payment of commissions, if any, is set out in the contract.
 - (k) Time is of the essence of the obligations of Purchaser under the contract.

SPECIAL NOTICE: THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.

END OF EXHIBIT B

EXHIBIT C

**SCHEDULE OF APARTMENTS AND COMMON INTERESTS
FOR MAKALEHA HEIGHTS CONDOMINIUM**

<u>Qty.</u>	<u>Apt. No.</u>	<u>Area of Limited Common Element (Sq. Ft.)</u>	<u>No. of BR/BATH</u>	<u>Appx Net Living Area (Sq. Ft.)</u>	<u>Appx Deck/ Carport/ Storage Shed Area (Sq. Ft.)</u>	<u>% of Common Int.</u>
1	A	4827 sq.ft.	2/1	768	112 (Lanai) 768 (Carport/ Storage)	33 1/3
1	B	8785 sq.ft.	3/3	1690	650 (Carport/ Storage & Guestroom)	33 1/3
1	C	6298 sq.ft.	3/2	1000	254 (Lanai) 276 (Carport/ Storage)	33 1/3

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use his unit, alter or add to it in any manner he deems desirable, so long as it is permitted by law and the Declaration of Protective Covenants and House Rules. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of Condominium Property Regime together with their respective signatures. See Exhibit I for cautionary comments from the County of Kauai Planning Department.

END OF EXHIBIT C

EXHIBIT D
SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between T. I. of Hawaii, Inc. (the "Escrow") and JOHN FRANCIS WEHRHEIM, JOSEPH NELSON, and DENNIS LEE VAN DER MEER, (the "Seller") contains, among other provisions the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contracts and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.

3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing, unless: (a) purchaser has elected within seven days of signing the purchase contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the Sales Contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.

4. Escrow will return deposited sums to the Buyer without interest if Seller and purchaser give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged purchaser. Thereafter, in the event of a cancellation as a matter of agreement or right, purchaser's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.

5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.

6. As Escrow's compensation for its performance under this Agreement, Escrow will receive \$300.00 for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii.

* * * * *

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

END OF EXHIBIT D

EXHIBIT E

COMMON ELEMENTS OF THE PROJECT

The common elements of the project are:

(a) Land in fee simple;

(b) All future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone;

(c) Any and all other elements and facilities in common use or necessary to the existence, upkeep and safety of the Project.

Limited Common Elements of Project

Certain parts of the common elements, herein referred to as the "limited common elements" are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved as follows:

(a) That certain land area upon and around which Units A, B, and C are located, shown and designated on the Condominium Map and the table below, are deemed a limited common element appurtenant to and for the exclusive use of each respective unit.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>	
A	4827 sq. ft.	NOTE: Land areas described herein are not legally subdivided lots.
B	8785 sq. ft.	
C	6298 sq. ft.	

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

END OF EXHIBIT E

EXHIBIT F

Encumbrances Against Title

1. Real Property Taxes, a lien not yet due and payable. However, check with the Kauai County Tax Assessor.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. AS TO FIRST:
 - a. Reservation of an easement in favor of the State of Hawaii, its successors and assigns, for the tunnel right-of-way 15.00 feet wide, over, under and across the herein described Lot 3, as shown on plan attached thereto and made a part thereof, together with rights of ingress and egress to and from said tunnel for maintenance, inspection and repairs; as disclosed in Land Patent Grant No. S-14,565 dated November 7, 1966.
 - b. Reservation as contained in Land Patent Grant No. S-14,565 dated November 7, 1966, to which reference is hereby made.
 - c. A 15-foot setback line from Kapahi Road, as contained in Land Patent Grant No. S-14,565.
 - d. Restrictions, covenants and conditions as contained in Land Patent Grant No. S-14,565 dated November 7, 1966, to which reference is hereby made, but deleting restrictions, if any, based on race, color, religion or national origin.
4. AS TO SECOND:
 - a. Reservation as contained in Land Patent Grant No. S-14,720 dated January 30, 1968, to which reference is hereby made.
 - b. Restrictions, covenants and conditions as contained in Land Patent Grant No. S-14,720 dated January 30, 1968, to which reference is hereby made, but deleting restrictions, if any, based on race, color, religion or national origin.
5. Any facts or findings a modern metes and bounds survey may reveal.
6. PURCHASE MONEY MORTGAGE

Mortgagor: John Francis Wehrheim, husband of JoAnn A. Yukimura

Mortgagee: Hawaiian Trust Company, Limited, a Hawaii corporation, as Trustee under Jean B. Gregg Revocable Living Trust Agreement dated May 30, 1989

Dated: August 28, 1991

Document No. 91-123483

To Secure: \$187,000.00 and any other amounts and/or obligations secured thereby

Restrictions, covenants, agreements, obligations, conditions, easements and other provisions set forth in Declaration of Condominium Property Regime dated May 22, 1992, recorded in said Bureau as Document No. 92-089621.

Restrictions, covenants, agreements, obligations, conditions and other provisions set forth in By-Laws of Makaleha Heights Condominium dated May 22, 1992, recorded in said Bureau as Document No. 92-089622.

Restrictions, covenants and conditions as contained in:

DECLARATION OF PROTECTIVE COVENANTS AND HOUSE RULES FOR MAKALEHA HEIGHTS

Dated: May 22, 1992

Document No. 92-089623

to which reference is hereby made, but deleting restrictions, if any, based on race, color, religion or national origin

End of Exhibit F

EXHIBIT G

DISCLOSURE ABSTRACT FOR
MAKALEHA HEIGHTS CONDOMINIUM

Pursuant to Hawaii Revised Statutes Section 514(A)-61,
the developer of _____ Condominium makes the following
disclosures:

1. The developer of the project is JOHN FRANCIS
WEHRHEIM, P.O. Box 3600, Lihue, HI 96766.

2. See Exhibit H for the projected annual maintenance
fees. The developer hereby certifies that the estimations have
been based on generally accepted accounting principles.

3. Only the statutory builder's warranty will apply to
any individual unit. There are pre-existing structures on the
property and no other warranty will be made regarding the
buildings.

4. No condominium units will be used for both hotel
and residential use; these are residential condominium units in
which rental and vacation rental use is permitted, but hotel use
is not.

5. There will be no commercial use except those
activities permitted by the Kauai County Comprehensive Zoning
Ordinance in the residential zone.


JOHN FRANCIS WEHRHEIM

Dated: Feb. 5th, 1992

RECEIPT

The undersigned has received a copy of the foregoing disclosure
abstract with Exhibit H this _____ day of _____, 19__.

Purchaser(s)

EXHIBIT H

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>		<u>Monthly Fee x 12 months = Yearly Total</u>
Unit A	\$ 61.67	740.00
Unit B	61.67	740.00
Unit C	61.67	740.00

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning

Electricity

common elements only

common elements
and apartments

Gas

Refuse Collection

Telephone

Water and Sewer

(Separate Meters to each Unit)

Maintenance, Repairs and Supplies

Building

Grounds

25.00

300.00

Management

Management Fee

25.00

300.00

Payroll and Payroll Taxes

Office Expenses

Insurance

90.00

1080.00

Reserves

Taxes and Government Assessments

45.01

540.00

Audit Fees

Other

TOTAL

185.01

2220.00

We, JOHN WEHRHEIM, es

developer for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

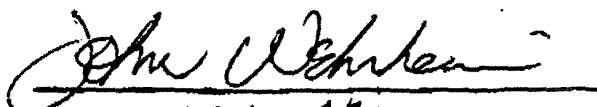

Date: Feb. 4th 1992

EXHIBIT I

JOANN A. YUKIMURA
MAYOR



JEFFREY R. LACY
PLANNING DIRECTOR

DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

COPY

July 30, 1992

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
250 South King Street, Suite 702
Honolulu, Hawaii 96813

Subject: Comments on Makaleha Heights Condominium Report
Tax Map Key:4-6-32:5
Kapaa Homesteads, Kauai
LOTR:07/28/92

After reviewing the subject document, we have the following comments to offer:

The amount of limited common elements proposed corresponds to the allowable unit density permitted by the CZO. The subject property is zoned Residential District (R-6) and qualifies for three (3) units.


When applying for Zoning Permits with the Planning Department, the owners must be made aware that 75% of the owners or their assignee, are required to sign the permit form(s). Should an assignee be designated, such assignee shall present proof of authorization from the 75% of the owners at the time a permit is applied for. This is a requirement because the Planning Department does not recognize the Condominium Public Report to be a legal subdivision of land.

There should be a disclosure provision written into this and all ensuing condominium reports stating that the report should not mean that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply with all applicable County Codes and Ordinances. It should also be made clear that the Condominium Public Report does not necessarily

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Page 2
July 30, 1992

mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County-approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for. Further, such services as County street maintenance and trash collection will not be available for interior road/driveways.

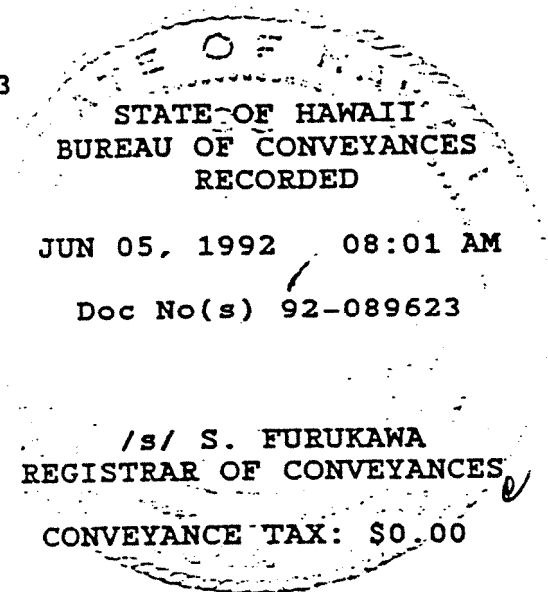
Should you have any questions, please feel free to contact Bryan Mamaclay of my staff at 245-3919.


JEFFREY LACY
Planning Director

cc: Steven R. Lee

END OF EXHIBIT I

R-603



AFTER RECORDATION RETURN BY MAIL TO: PG ACCOM 136975B
 STEVEN R. LEE, Attorney At Law
 2959 Umi Street, Suite 300, Lihue, Hawaii 96766 RL (3)

TITLE OF DOCUMENT: DECLARATION OF PROTECTIVE COVENANTS
 AND HOUSE RULES FOR MAKALEHA HEIGHTS

PROPERTY DESCRIPTION: TMK No.: (4) 4-6-032:005

KNOW ALL MEN BY THESE PRESENTS:

**DECLARATION OF PROTECTIVE COVENANTS AND HOUSE RULES
 FOR MAKALEHA HEIGHTS**

The undersigned are the owners of the real property affected by this document, and they adopt the following for the MAKALEHA HEIGHTS CONDOMINIUM. The purpose of these Protective Covenants and Building Rules (herein referred to as "Building Rules") is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the MAKALEHA HEIGHTS CONDOMINIUM, hereinafter referred to as "Project," and to provide for the maximum enjoyment of the premises, with protection of all owners reasonable expectations. All owners and occupants, their agents, employees and invitees shall be bound by these Building Rules and by standards of reasonable conduct, whether covered by these Building Rules or not.

1. Definitions. As used herein:

a. "Area" refers to the limited common element set aside for the exclusive use of each Unit owner.

b. "Unit" refers to the entire condominium interest held by an owner.

2. Building Permits. Any owner desiring to construct any improvements or alterations to a unit will have to comply with the Kauai County building and zoning codes, as the same

may be changed from time to time. The developer or, upon creation of the Association of condominium owners, the President of the Association, shall apply for all building permits for all Units. However, the Developer or President may give written authority to each individual Unit Owner to apply for permits, after insuring compliance with the Building Rules.

3. Water and Utilities. The water, electricity and telephone are connected to each unit, and each unit has separately metered water and electric services. Each Unit Owner will be required to connect maintain, repair and replace such services if required. All future utilities in the condominium project shall be placed underground.

4. Septic System. There are no sewer lines and no public sanitary sewer system. Each Unit has its own cesspool septic system, located within its own limited common element Area or in the easement provided for that purpose. Cesspools will not be allowed for further construction of replacement or additional residences on the project.

5. Roadway/Driveway/Parking. The roadway/driveway within the Project is paved. Each Unit owner will be responsible for clearing all vegetation from its Area to the extent it enters the common element. No parking is allowed in or on the roadway/driveway or yard areas. All guests must park on Kapahi Road. All vehicles must be parked in carports constructed for that purpose. No inoperable vehicles or parts of vehicles shall be left exposed to view outside the carports for the respective units.

6. Construction and Storage of Equipment. In the construction of any remodeling of or replacement of any dwelling or improvement, the Unit owner shall not use second-hand materials, quonset huts and/or any other materials that would create a nuisance on the Unit owner's property, or be so to the owners of other Units in the condominium project. All equipment, machinery and other bulky items shall be stored or screened from view of the other units by enclosures meeting the requirements of these rules. Construction equipment and materials shall only be stored on property temporarily while remodeling or replacement is taking place.

7. Pets and Animals/Noise in General. The following animals shall be precluded from possession by owners or occupants of the Project: farm animals, including but not limited to bulls, pigs, roosters, more than two dogs of any variety, or four cats of any variety, peafowl, and any animals (including those permitted above) that create such levels of noise or noxious odors that a unit owner makes written objection to the association of unit owners. In the event the complaint is substantiated, offending owner(s) shall have 30 days in which to remedy the problem or to dispose of the offending animals.

8. Vehicles/Equipment. All vehicles must be parked in a garage or carport. No exposed vehicles will be allowed.

9. Viewplanes. To the end of preserving existing privacy and existing viewplanes of all units, no existing or permitted vegetation shall be allowed to grow above existing viewplanes or 8 feet in height, which ever is less. Unit owners of Units B and C are also prohibited from building a second story on their existing residences.


10. Common Element Expenses and Enforcement. The Association shall provide for such common area expenses necessary or desirable to maintain and keep the Project in acceptable condition. The Association shall have the power to enforce these Rules, including the assessment of the common expenses and the filing of a lien against any Unit owner failing to observe these Building Rules.

11. Repeal or Modification. These may be repealed or modified by Developer at any time prior to issuance of the Final Public Report by the State of Hawaii, Real Estate Commission. Thereafter they may be modified by an affirmative vote of the holders of 75% of the common interests in the Project.

Adopted this 22nd day of May, 1992.

Fee Owner:


JOHN FRANCIS WEHRHEIM


JOSEPH NELSON


DENNIS LEE VAN DER MEER