

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer GE CAPITAL HAWAII, INC.  
Address 745 Fort Street Mall, 17th Floor, Honolulu, Hawaii 96813

Project Name(\*): HALE LAHAINA  
Address: 84-1064 Lahaina Street, Waianae, Hawaii 96792

Registration No. 4453 Effective date: July 17, 2000  
(Conversion) Expiration date: August 16, 2001

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

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

**FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
(white)  
[X] No prior reports have been issued.  
[ ] This report supersedes all prior public reports.  
[ ] This report must be read together with \_\_\_\_\_

**SUPPLEMENTARY:** This report updates information contained in the:  
(pink)  
[ ] Preliminary Public Report dated: \_\_\_\_\_  
[ ] Final Public Report dated: \_\_\_\_\_  
[ ] Supplementary Public Report dated: \_\_\_\_\_

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

\_\_\_\_\_  
(\* ) Exactly as named in the Declaration

FORM: RECO-30 286/986/189/1190/892/0197/1098

*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.*

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report.       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 the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

SPECIAL ATTENTION

This is a CONDOMINIUM PROJECT, not a subdivision. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

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

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

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## General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. 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 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 owners/tenants) 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 at the lessee's expense. 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 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 project's 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 the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the 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 important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: **GE CAPITAL HAWAII, INC.**, a Hawaii corporation Phone: (808) 527-8283  
745 Fort Street Mall, 17th Floor  
Honolulu, Hawaii 96813

Names of officers or general partners of developers who are corporations or partnerships; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

David J. Porteus, President  
Dennis T. Aoki, Vice President  
Joy Tanikawa, Assistant Vice President  
Clarene T. Mitsunaga, Senior Vice President/Treasurer  
John V. Ogden, Secretary

Real Estate Broker: **THE REALTY COMPANY, LTD.** Phone: (808) 524-3687  
a Hawaii corporation  
1042 Fort Street Mall, Suite 300  
Honolulu, Hawaii 96813

Escrow: **TITLE GUARANTY ESCROW SERVICES, INC.**, a Hawaii corporation Phone: (808) 521-0211  
Main Branch  
235 Queen Street, First Floor  
Honolulu, Hawaii 96813

General Contractor: **N/A** Phone: **N/A**

Condominium Managing Agent: **Self-managed by the Association of Apartment Owners** Phone: **N/A**

Attorney for Developer: **KOBAYASHI, SUGITA & GODA** Phone: (808) 539-8700  
999 Bishop Street, 26th Floor  
Honolulu, Hawaii 96813  
ATTN: Kenneth Y. Sugita/Gary K. Nakata

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

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. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and 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.

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. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_
- Filed - Land Court: Document No. 2625448

The Declaration referred to above has been amended by the following instruments [state name of document, date 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 Conveyances Condo Map No. \_\_\_\_\_
- Filed - Land Court Condo Map No. 1349

The Condominium Map has been amended by the following instruments [state name of document, date 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 manner in which meetings will be conducted, whether pets are prohibited or allowed 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. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_
- Filed - Land Court: Document No. 2625449

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. House Rules. The Board of Directors may adopt 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.

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%*	75%
Bylaws	65%*	67%
House Rules	--	Action by Board of Directors

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

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:

Developer has expressly reserved the right to successively amend the Declaration without the consent or joinder of persons then owning or leasing the apartments as may be required by law, the Real Estate Commission of the State of Hawaii, any title insurance company issuing a title insurance policy on the Project, or any institutional lender lending funds on the security of the Project or any of the apartments thereof; provided, however, that no such amendment which would change the common interest appurtenant to an apartment or substantially change the design, location or size of an apartment shall be made without the consent to and joinder in such amendment by the owner of such apartment and all others, if any, having any interest therein.

Developer has expressly reserved the right to amend the By-Laws before the Association has been duly organized and before any apartment in the Project has been conveyed.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

For Sub-leaseholds:

- Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  
 Canceled  Foreclosed
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year



Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: 84-1064 Lahaina Street Tax Map Key (TMK): 8-4-021-008 (1)  
Waianae, Hawaii 96792

Address  TMK is expected to change because \_\_\_\_\_

Land Area: 20,000 [X] square feet [ ] acre(s) Zoning: R-5

Fee Owner: GE CAPITAL HAWAII, INC.  
 Name  
745 Fort Street Mall, 17th Floor  
 Address  
Honolulu, Hawaii 96813

Lessor: N/A  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_

C. Buildings and Other Improvements:

1.  New Building(s)  Conversion of Existing Building(s)  Both New Building(s) and Conversion

2. Number of Buildings: 4 Floors Per Building 1

Exhibit        contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other

4. Uses Permitted by Zoning:

	<u>No. of</u>	<u>Use Permitted</u>		<u>No. of</u>	<u>Use Permitted</u>
	<u>Apts.</u>	<u>By Zoning</u>		<u>Apts.</u>	<u>By Zoning</u>
<input checked="" type="checkbox"/> Residential	<u>4</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Agricultural	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other: <u>      </u>	<u>   </u>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes  No

5. Special Use Restrictions:

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

- Pets: Dogs, cats and other household pets are permitted in reasonable number (See By-Laws §V.4.n; House Rules §II.2.02)
- Number of Occupants
- Other: Residential use only (See Declaration §9.3)
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: None                      Stairways: None                      Trash Chutes: None

Apt. Type	Quantity	BR/Bath	Net Living Area (square feet)	Net Other Area (square feet)	Identify
1	1	3/1	864.00	---	---
2	1	3/1	704.00	---	---
3 (reverse of Apt. Type 2)	2	3/1	704.00	---	---

Note: Each Apt. has a 4' x 14' concrete slab for a water heater & laundry facilities

Total Apartments: 4

\* **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:**

Each Apartment is a detached unit therefore the boundaries of each Apartment are the outside surfaces of the footings, foundations, perimeter walls and roofs of each Apartment.

**Permitted Alterations to Apartment:**

Only pursuant to an amendment of the Declaration, duly executed by or pursuant to the affirmative vote of **seventy-five per cent (75%)** of the apartment owners and accompanied by the written consent of **seventy-five per cent (75%)** of the holders of first mortgage liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the Association Board.

All apartment owners and their mortgagees ("**Purchasing Owner**"), by acquiring an interest in an apartment, shall be deemed at the time such interest in the apartment is acquired, to have automatically and irrevocably constituted and appointed each other apartment owner ("**Amending Owner**") as proxy of the Purchasing Owner, with full power of substitution, to call a meeting to decide on the following matters, and vote in the name, place and stead of the Purchasing Owner, with all powers which the Purchasing Owner would possess if personally present, the Purchasing Owner's interest in the Purchasing Owner's property at the Project, but only with respect to the following matters: (i) the approval of any alteration or addition of a material structure to the Amending Owner's property; (ii) the adoption of an amendment of the Declaration Condominium Property Regime for such Project reflecting such alteration or addition of a material structure to the Amending Owner's property; (iii) the adoption of an amendment of the Condominium Map for such Project reflecting such alteration or addition of a material structure to the Amending Owner's property; (iv) the appointment,

empowerment and authorization of Amending Owner to execute on behalf of the Association of Apartment Owners of the Project any document amending the Declaration and the Condominium Map for such Project reflecting such alteration or addition of a material structure to the Amending Owner's property; (v) the appointment, empowerment and authorization of Amending Owner to file with the Assistant Registrar of the Land Court of the State of Hawaii on behalf of the Association of Apartment Owners of the Project any documents necessary to amend the Declaration and the Condominium Map for such Project to reflect such alteration or addition of a material structure to the Amending Owner's property.

7. Parking Stalls:

Total Parking Stalls: 1\*

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	Covered	Open	Covered	Open	Covered	Open	
Assigned (for each unit)		1*					4*
Guest		4					4
Unassigned							
Extra for Purchase							
Other							
Total Covered and Open	8*		0		0		8*

Each apartment will have the exclusive use of at least 1\* parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use

**\* Within each of the limited common elements surrounding each apartment are 323 square foot asphaltic concrete parking areas.**

- Commercial parking garage permitted in condominium project.
- Exhibit \_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool     Storage Area     Recreation Area
- Laundry Area     Tennis Court     Trash Chute/Enclosures
- Other: \_\_\_\_\_

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

- There are no violations                       Violations will not be cured.
- Violations and cost to cure are listed below:                       Violations will be cured by \_\_\_\_\_.

(Date)

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

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

Based upon a report prepared by Brad T. Nago, P.E., #2442-S, the Developer states:

- a. The present conditions of all structural components and mechanical and electrical installation material to the use and enjoyment of Apartment Nos. 1 to 4 appear to be good; and
- b. The Developer makes no statement with respect to the expected useful life of each of the items set forth in the preceding paragraph a.

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

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

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	_____	X*	_____
Structures	X	_____	_____
Lot	X	_____	_____

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.

\* The apartment units in the project are considered nonconforming by the City and County of Honolulu Department of Planning and Permitting. However, existing use permit number 1999/EU-2 was approved with conditions on April 5, 1999 for the nonconforming units, allowing the continued use, repair, alteration, expansion and reconstruction of the existing apartment dwellings subject to the conditions of approval and the land use ordinance. See section 19.3 of the Declaration for more detail.

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

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit B.

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 use them, as described in the Declaration, are:

described in Exhibit C\*.

as follows:

\* 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 used to determine each apartment'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 apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit D.

as follows:

E. 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 an apartment in the project.

Exhibit E describes the encumbrances against the title contained in the title report dated May 18, 2000  
and issued by Title Guaranty of Hawaii, Incorporated.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligations. A blanket lien 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.

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

Blanket (except for improvement district or utility assessments) must be release before the developer conveys the apartment to the buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
N/A	N/A

F. Construction Warranties:

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

1. **Building and Other Improvements:**

Apartment Nos. 1 to 4 were built in 1958.

Developer makes no warranties or promises of any kind, express or implied, about the Apartment or the Project (including the common elements of the Project), or about any furnishings, fixtures, appliances or other consumer products or anything else installed, attached, affixed or otherwise contained in the Apartment or the Project (including the common elements of the Project), including any warranties or promises of "merchantability", "Workmanlike Construction" or "Fitness for a particular use or purpose". Without limiting the generality of any of the foregoing, Developer makes no warranties or promises that the Apartment or the Project or any improvements in the Apartment or the Project (including the common elements of the Project) will be free from cracks in, or other damage to, the concrete or other building materials. In other words, Developer makes no warranties or promises at all.

2. **Appliances:**

The Developer will transfer to Buyer any manufacturer's or dealer's warranties of which the Developer is aware, and which can be transferred, covering, any furnishings, fixtures, appliances or consumer products in the Apartment. The Developer is not adopting any such contractor's, manufacturer's or dealer's warranties, or acting as co-warrantor, but is only attempting to pass on to Buyer the benefit of any such warranties of which the Developer is aware and which can be transferred.



G. Status of Construction and Date of Completion or Estimated Date of Completion:

Apartment Nos. 1 through 4 were constructed in 1958.

Improvements to the Project were completed in October, 1999.

H. Project Phases:

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

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

IV. CONDOMINIUM MANAGEMENT

- A. 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 condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium 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 condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer  the Developer or the Developer's affiliate.  
 self-managed by the Association of Apartment Owners  Other: \_\_\_\_\_

- B. 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, a lien may be placed on your apartment and the apartment 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 F contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change). The Developer has not conducted a reserve study in accordance with HRS 514A-83.6 and the replacement reserve rules Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

- C. 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:

- None  Electricity (\_\_\_\_ Common Elements only \_\_\_\_ Common Elements & Apartments)  
 Gas (\_\_\_\_ Common Elements only \_\_\_\_ Common Elements & Apartments)  
 Water  Sewer  Television Cable  
 Other \_\_\_\_\_

V. MISCELLANEOUS

A. 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 G contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated June 1, 2000

Exhibit H contains a summary of the pertinent provisions of the escrow agreement.

Other \_\_\_\_\_

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

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 or Supplementary Report to a Final Report: Sales made by the developer are binding if:

A) The Developer delivers to the buyer a copy of:

- 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
- 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;

B) The buyer is given an opportunity to read the report(s); **AND**

C) One of the following has occurred:

- 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
- 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
- 3) 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:

A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**

B) 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.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_

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 Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4453 filed with the Real Estate Commission on June 22, 2000.

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

YELLOW paper stock     WHITE paper stock     PINK paper stock

C. Additional Information Not Covered Above

None

D. 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 buyers 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.

\_\_\_\_\_  
GE CAPITAL HAWAII, INC.  
Printed Name of Developer

By: \_\_\_\_\_ Date \_\_\_\_\_  
Duly Authorized Signatory\*

\_\_\_\_\_  
Dennis Aoki, Vice President  
Printed Name & Title of Person Signing Above

By: \_\_\_\_\_ Date \_\_\_\_\_  
Duly Authorized Signatory\*

\_\_\_\_\_  
Joy Tanikawa, Assistant Vice President  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City & County of Honolulu  
Planning Department, City & County of Honolulu

\* Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.

**EXHIBIT A**

**APARTMENT DATA**

Apt No.	Net Living Area (sq.ft.)	No. of Bdrms	No. of Baths	Percentage Ownership
1	864.00	3	1	25%
2	704.00	3	1	25%
3	704.00	3	1	25%
4	704.00	3	1	25%

## **EXHIBIT B**

### **COMMON ELEMENTS**

One freehold estate is designated in all of the portions and appurtenances of the Project remaining after excluding the Apartments, including specifically, but not limited to:

- (1) Said land in fee simple.
- (2) All mailboxes, yards, boundary walls, grounds and landscaping, roads, walkways, sidewalks, parking areas, parking stalls, and driveways.
- (3) All electrical equipment, wiring, pipes, conduits, other utility and service lines, and other central and appurtenant transmission facilities, installations over, under and across the Project which serve more than one building for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution.
- (4) All other portions of the Land, property, and improvements not specifically heretofore designated as apartments, but which are intended for common use.
- (5) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.



## EXHIBIT C

### LIMITED COMMON ELEMENTS

Certain parts of the common elements, herein called and designated "**limited common elements**", are hereby set aside and reserved for the exclusive use of each apartment and each apartment shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(1) Each apartment has the exclusive use and benefit of the land adjacent to such apartment, as delineated by the dark dashed lines of the Plot Plan on the location page of the Condominium Map and identified as:

Apartment Area 1 for Apartment No. 1,  
Apartment Area 2 for Apartment No. 2,  
Apartment Area 3 for Apartment No. 3, and  
Apartment Area 4 for Apartment No. 4.

Except for the common driveway common element, these four limited common element areas contain all of the Common Elements.

(2) Within each of said limited common element areas are 323 square foot asphaltic concrete parking areas.

(3) There will be four (4) mailboxes located in the Project, designated identically with the apartment designations. The mailbox bearing the same designation as the apartment designation shall be a limited common element appurtenant to and reserved for the exclusive use and benefit of the designated apartment.

(4) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited to the use of such apartments. Notwithstanding any provision herein to the contrary, all costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements to any of the aforementioned limited common elements of the Project shall be charged to the owner of the apartment to which the limited common element is appurtenant.

## **EXHIBIT D**

### **COMMON INTEREST TO BE CONVEYED TO BUYER**

Each apartment shall have appurtenant thereto an **undivided interest** in and to all the common elements of the Project as set forth for such apartment in **EXHIBIT A** of this Condominium Public Report. Such interests are defined and referred to herein as the "**common interest**" and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting.

The common interest is based upon the ratio each apartment bears to the total number of all apartments in the Project.

## EXHIBIT E

### ENCUMBRANCES AGAINST TITLE

1. Designation of Easement "41" (10 feet wide) as shown on Map 18, as set forth by Land Court Order No. 10510, filed July 31, 1951, for storm drain purpose.

2. Terms, provisions, covenants, conditions and reservations contained in that certain Deed dated June 9, 1952, filed as aforesaid as Document No. 139840.

The foregoing includes, but is not limited to, the following:

"...an easement, 10 feet wide, for storm drain purposes, over Easement 41, as shown on said Map 18."

3. Terms, provisions, covenants, conditions and reservations contained in that certain Declaration of Restrictive Covenants dated May 26, 1999, filed as aforesaid as Document No. 2557252; said Declaration being re-recorded and filed as aforesaid as Document No. 2625447.

4. Terms, provisions, covenants, conditions and reservations contained in that certain Declaration of Condominium Property Regime for **HALE LAHAINA** Condominium Project dated May 9, 2000, filed as aforesaid as Document No. 2625448, and shown on Map 1349 and any amendments thereto.

5. Terms, provisions covenants, conditions and reservations contained in the By-Laws of the Association of Apartment Owners dated May 9, 2000, filed as aforesaid as Document No. 2625449.

(NOTE: The aforementioned premises has been divided into 4 apartment units more particularly described in that certain Declaration of Condominium Property Regime dated May 9, 2000, filed as aforesaid as Document No. 2625448.)

**EXHIBIT F**

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

**Estimate of Initial Maintenance Fees:**

<b>Apartment Number</b>	<b>Monthly Maintenance Fee</b>	<b>Annual Maintenance Fee</b>
1	None	None
2	None	None
3	None	None
4	None	None

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

<u>Estimate of Maintenance Fee Disbursements:</u>	<u>Monthly</u> x 12 months = <u>Yearly Total</u>	
Utilities (*)	000.00	0,000.00
Refuse Collection	000.00	0,000.00
Maintenance of Common Driveway/Grounds (a)	000.00	0,000.00
Insurance (**)	000.00	0,000.00
Resrvcs (***)	000.00	0,000.00
Taxes and Government Assessments	000.00	0,000.00
Audit Fees	000.00	0,000.00
Other	000.00	0,000.00
TOTAL	\$0,000.00	\$00,000.00

**Dennis Aoki**, Vice-President, and **Joy Tanikawa**, Assistant Vice-President, both with **GE CAPITAL HAWAII, INC.**, a Hawaii corporation, whose address is 745 Fort Street Mall, 17th Floor, Honolulu, Hawaii 96813, the condominium developer for the **HALE LAHAINA** 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.

  
 \_\_\_\_\_  
**DENNIS AOKI**

Date: 6/7/00

  
 \_\_\_\_\_  
**JOY TANIKAWA**

Date: 6/7/00

(\*) All utilities will be separately metered or otherwise charged, and the common element will incur no separate utility charges

(\*\*) Section 514A-86, HRS, requires the association to purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. The Developer expects that the association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the association as an additional insured. In such case, fire insurance premiums will be the responsibility of the individual apartment owners and not be common expenses.

(\*\*\*) The Developer has not conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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

(a) Repair/resurfacing of common driveway will require special assessment.

## EXHIBIT G

### SALES CONTRACT PERTINENT PROVISIONS

1. The Sales Contract identifies the apartment, the common interest, the Purchase Price, the method of payment, the initial maintenance fees.

2. **For Regular Sales Not Covered By Chapter 514A, Part VI, Hawaii Revised Statutes.** If the Buyer wishes a mortgage loan on the Apartment for the payment of a portion of the Purchase Price described in **Paragraph J.2** of the Sales Contract, Buyer shall absolutely and strictly comply with the following requirements:

a. Within **five (5) working days** after acceptance of the Sales Contract by Seller, Buyer shall apply to **GE CAPITAL HAWAII, INC.**, a Hawaii corporation, whose address is 745 Fort Street Mall, 17th Floor, Honolulu, Hawaii 96813, or any other lending institution Seller designates (the "**Lender**") for the loan and apply for eligibility and credit approval necessary for the loan. Buyer shall have the Lender inform Seller that application for the loan has been made. After the application has been made, Buyer will, on request, promptly execute and deliver all documents and take all steps necessary to complete the loan. If Buyer does not make the loan application within said **five (5) working day period**, Buyer shall forfeit Buyer's deposit and the Sales Contract shall be cancelled.

b. Within **ten (10) calendar days** after acceptance of the Sales Contract by Seller, Buyer shall secure a preliminary approval from the Lender.

c. Within **forty-five (45) calendar days** after acceptance of the Sales Contract by Seller, Buyer shall secure a loan commitment from the Lender.

If the application for such loan or eligibility and credit approval therefor is rejected by the Lender at any time, or not approved, or an irrevocable commitment is not issued by such Lender in a form satisfactory to Seller, within **forty-five (45) calendar days** after acceptance of this offer by Seller, Seller has the option to terminate the Sales Contract and cause Escrow Agent to refund to Buyer all monies previously paid without interest less the cost of any credit reports and all other costs including but not limited to escrow charges incurred by Seller. Seller shall give written notice of such termination, and a copy thereof shall be given to Escrow Agent.

3. **For Owner-Occupant Sales Qualifying Under Chapter 514A, Part VI, Hawaii Revised Statutes.**

(1) If the Sales Contract is made under **Chapter 514A, Part VI, Hawaii Revised Statutes, as amended**, and if the Buyer wishes a mortgage loan on the Apartment for the payment of a portion of the Purchase Price described in **Paragraph J.2** of the Sales Contract, Buyer shall apply to \_\_\_\_\_, or any other lending institution Seller designates (the "**Lender**"), for such loan and for eligibility and credit approval necessary therefor. Buyer shall have the Lender inform Seller that application for loan has been made. After the application is made, Buyer will, upon the Lender's request, promptly execute and deliver all documents and take all steps necessary to

complete such loan.

(2) Seller or Buyer may cancel the Sales Contract and Seller shall cause Escrow to refund to purchaser all moneys previously paid without interest less the cost of any credit reports and all other costs including but not limited to escrow charges incurred by Seller, in the event that Buyer shall not secure adequate financing, or a commitment for adequate financing not later than **fifty (50) calendar days** from the date of the Sales Contract; or

(3) Buyer shall reaffirm at closing of escrow the Buyer's intent to be an owner-occupant no earlier than the Buyer's receipt of a final public report and no later than closing of escrow for the Apartment. Failure to sign the reaffirmation upon reasonable request shall constitute a default under the Sales Contract by the Buyer. In the event that Buyer fails, or is otherwise unable, to make such reaffirmation, Seller shall, as required by law, cancel the Sales Contract. In such event, and if more than thirty days have passed since the date of delivery to Buyer of the final public report for the Project, Seller may exercise the remedies provided for in **Paragraph J.9** of the Sales Contract and any other remedies provided by law.

(4) The party terminating the Sales Contract shall give written notice of such termination, and a copy thereof shall be given to Escrow Agent.

3. The Sales Contract provides that the Buyer has the right to cancel the Sales Contract at any time prior to the **earlier of**:

(1) the conveyance of the apartment to Buyer, or

(2) midnight of the **thirtieth (30th) day** following the date of execution of the Sales Contract unless Buyer waives Buyer's right to cancel in writing prior to such time.

Should Buyer cancel the Sales Contract within such time, the amounts paid by Buyer, less any escrow cancellation fee and other costs associated with the purchase up to a maximum of \$250.00, will be returned to Buyer and all rights and liabilities of Buyer under the Sales Contract will cease and terminate. Upon expiration of the time upon which Buyer may cancel, the Sales Contract shall be binding upon Buyer.

4. The Sales Contract provides that the Buyer shall pay, at the time of pre-closing, all closing fees and costs, including, but not limited to, the cost of preparing the Apartment Deed, all notary fees, the conveyance tax, recording fees, cost of credit report, cost of preparing note(s) and mortgage(s), if any, loan finance fees, the cost of a certificate of title, the cost of any title insurance required by the Lender, all of the escrow fee, and Buyer's share of maintenance fees payable to the Association of Apartment Owners including the first month's maintenance fee and start-up fee equal to two (2) months' maintenance fees.

5. The Sales Contract provides that any interest payable on monies deposited with Escrow Agent shall belong to and be payable to Developer.

6. The Sales Contract provides that the Buyer's funds may be disbursed from the Trust

Fund only at Closing and only after the following have occurred:

- (1) The Buyer has received a copy of the Final Public Report and given the Seller a receipt for it,
- (2) Two (2) full working days have gone by since Seller notifies Escrow that Buyer has received the receipt,
- (3) The Seller notifies Escrow in writing that all of the requirements of **Section 514A-63, Hawaii Revised Statutes**, then applicable to the Project, have been satisfied,
- (4) The Seller notifies Escrow in writing that the Sales Contract for the Buyer has become a binding sales contract and that the Seller's and Purchaser's rights of cancellation as provided in **Paragraphs J.3 and J.6** of the Sales Contract have lapsed or have become void,
- (5) The Buyer's Apartment Deed has been duly filed with the Assistant Registrar of the Land Court of the State of Hawaii, and
- (6) Escrow has received evidence (such as title insurance) satisfactory to Escrow that **forty-five (45) days** have elapsed since the filing of the Affidavit of Publication of the Notice of Completion, or all mechanics' and materialmen's liens have been cleared or there are sufficient funds available to cover any such liens that may be filed; or if closing is to occur prior to the expiration of the applicable mechanic's lien period, the Seller shall have (a) provided the Purchaser with an owner's title insurance policy with a mechanic's lien endorsement that protect the Purchaser against all future mechanic's liens, and (b) provided the Real Estate Commission of the State of Hawaii with a release by the General Contractor of its lien rights.



## EXHIBIT H

### ESCROW AGREEMENT PERTINENT PROVISIONS

1. The Escrow Agreement by and between the Seller (the Developer of the condominium project) and **TITLE GUARANTY ESCROW SERVICES, INC.**, a Hawaii corporation, at its Main Branch, whose address is 235 Queen Street, First Floor, Honolulu, Hawaii 96813, establishes how proceeds from sales of apartments and all sums received from any source are placed in escrow, as well as the methods of disbursement of said funds.

2. The Escrow Agreement provides that Buyer shall be entitled to a refund of Buyer's funds, and Escrow shall pay said funds to said Buyer, without interest, if Buyer shall in writing request refund of Buyer's funds, as follows:

a. **When Will Refunds be Made.** The Sales Contract explains when Buyers may obtain refunds of their Escrow deposits. Escrow agrees to make the refunds promptly if Seller tells Escrow in writing that a refund should be made according to the Sales Contract. No refund is to be made at a Buyer's request unless Escrow receives written approval from the Seller.

b. **Interest.** The refunds will be made without any interest as stated in the Sales Contract.

c. **Deduct Cancellation Fees.** Under the Sales Contracts there are times when Escrow is to deduct cancellation fees from the refund amount. Escrow will deduct the cancellation fees from the refund unless Seller instructs Escrow not to do so. The words "cancellation fees" mean Escrow's cancellation fees which are defined in Paragraph 11.b of this Agreement and any cancellation fees of the lender from whom the Buyer has arranged a loan to buy the apartment.

d. **Notice of Refunds.** Escrow shall give each Buyer entitled to a refund notice of the refund by registered mail. It will be addressed to such Buyer at Buyer's address shown on Buyer's Sales Contract. If Buyer gives Escrow another address, then Escrow will send the notice to that address.

e. **Owner/Occupant Refunds.** Escrow will also refund a Buyer's deposits as required by Part IV of the Condominium Law, if the Buyer and the Seller request it in writing and if the Buyer is on the Developer's reservation list as an intended owner/occupant under Section 514A-104 of the Condominium Law and

(1) the Developer does not offer such Buyer a Sales Contract; or

(2) the Buyer fails to obtain financing satisfactory to Developer within the time required by Part VI of the Condominium Law.

Except for the refunds under subparagraph (1) above, Escrow will first deduct cancellation fees from the refund.

3. The Escrow Agreement provides that Escrow may disburse the Buyer's funds only at Closing in accordance and compliance with the terms and provisions of the Sales Contract and only under the following terms and conditions:

a. The Buyer has received a copy of the Final Public Report and has given the Seller a receipt for it,

b. Two (2) full working days have gone by since Seller notifies Escrow that Buyer has received the receipt,

c. The Seller notifies Escrow in writing that all of the requirements of **Section 514A-63, Hawaii Revised Statutes**, then applicable to the Project, have been satisfied,

d. The Seller notifies Escrow in writing that the Sales Contract for the Buyer has become a binding sales contract and that the Seller's and the Buyer's rights of cancellation as provided in **Paragraphs J.3 and J.6** of the Sales Contract have lapsed or have become void,

e. The Buyer's Apartment Deed has been duly recorded in the Bureau of Conveyances of the State of Hawaii, and

f. Escrow has received evidence (such as title insurance) satisfactory to Escrow that **forty-five (45) days** have elapsed since the filing of the Affidavit of Publication of the Notice of Completion, or all mechanics' and materialmen's liens have been cleared or there are sufficient funds available to cover any such liens that may be filed; or

If closing is to occur prior to the expiration of the applicable mechanics' lien period, the Seller shall have (a) provided the Buyer with an owner's title insurance policy with a mechanic's lien endorsement that protect the Buyer against all future mechanic's liens, and (b) provided the Real Estate Commission of the State of Hawaii with a release by the General Contractor for the Project of its lien rights.