

**AMENDMENT 1 TO
DEVELOPER'S PUBLIC REPORT
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME:	WAIALUA BEACH COLONY MAKAI
PROJECT ADDRESS:	69-435 Waialua Beach Road Waialua, Hawaii 96791
REGISTRATION NUMBER:	6752
EFFECTIVE DATE OF REPORT:	September 13, 2013
THIS AMENDMENT:	<input checked="" type="checkbox"/> Must be read together with <input checked="" type="checkbox"/> Developer's Public Report dated <u>March 18, 2009</u> <input type="checkbox"/> Amended Report dated _____ <input type="checkbox"/> Supersedes all prior amendments: Includes all prior amendment(s) and <u>must</u> be read together with <input type="checkbox"/> Developer's Public Report dated _____ <input type="checkbox"/> Amended Report dated _____
DEVELOPER(S):	WAIALUA BEACH LAND COMPANY MAKAI LLC

Preparation of this Amendment

The Developer prepared this amendment pursuant to the Condominium Property Act, Section 514B-56, Hawaii Revised Statutes (HRS), as amended from time to time. Section 514B-56, HRS, requires that after the Commission has issued an effective date for the Developer's Public Report, if there are any changes, either material or pertinent changes, or both, regarding the information contained in or omitted from the Developer's Public Report, or if the developer desires to update or change the information set forth in the Developer's Public Report, the developer shall immediately submit to the Commission an amendment to the Developer's Public Report or an amended Developer's Public Report clearly reflecting the change, together with such supporting information as may be required by the Commission, to update the information contained in the Developer's Public Report.

The law defines "material change" as used in parts IV and V of Chapter 514B, HRS means any change that directly, substantially, and adversely affects the use or value of (1) A purchaser's unit or appurtenant limited common elements; or (2) Those amenities of the project available for the purchaser's use.

The law defines "pertinent change" to mean, as determined by the commission, a change not previously disclosed in the most recent public report that renders the information contained in the public report or in any disclosure statement inaccurate, including, but not limited to (1) The size, construction materials, location, or permitted use of a unit or its appurtenant limited common element; (2) The size, use, location, or construction materials of the common elements of the project; or (3) The common interest appurtenant to the unit. A pertinent change does not necessarily constitute a material change.

The filing of an amendment to the Developer's Public Report or an amended Developer's Public Report, in and of itself, shall not be grounds for a purchaser to cancel or rescind a sales contract. A purchaser's right to cancel or rescind a sales contract shall be governed by sections 514B-86 and 514B-87, HRS, the terms and conditions of the purchaser's contract for sale, and applicable common law.

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

The law defines "material facts" to mean any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale.

This amendment may be used by the Developer for promotional purposes only if it is used with the last Developer's Public Report in its entirety.

Prospective purchasers and purchasers are encouraged to read this amendment carefully and to seek professional advice.

Summary of Changes from Earlier Developer's Public Report are Described Beginning on the Next Page

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Summary of Changes from Earlier Developer's Public Report:

This summary contains a general description of the changes, if any, made by the developer since the last Developer's Public Report was issued an effective date. It is not necessarily all inclusive. Prospective purchasers and purchasers must read this amendment together with the last Developer's Public Report with the effective date as noted on the top of page 1 if they wish to know the specific changes that have been made.

Changes made are as follows (include a description of what the change is and page number and or exhibit alphabet or number; additional pages may be used):

1. Mary Worrall Associates has been designated the Real Estate Broker for the Project and a new listing agreement has been executed and filed with the Real Estate Commission. See revised page 9.
2. Title Guaranty Escrow Services, Inc. has been designated the Escrow Depository for the Project and a new Escrow Agreement has been executed and filed with the Real Estate Commission. See revised pages 9 and 13.
3. A revised specimen sales contract has been filed with the Real Estate Commission. See revised Exhibit G.
4. The Declaration of Protective Covenants, Conditions and Restrictions for Waialua Beach Colony has been amended. See revised Exhibit D and Exhibit I.
5. An updated title report has been filed with the Real Estate Commission. See revised page 5 and Exhibit D.
6. The Grad Law Firm has been designated as Attorney for Developer in connection with this Amendment to the Developer's Public Report. See revised page 9.

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Changes continued:

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The Developer declares subject to the penalties set forth in Section 514B-69, HRS that this project continues to conform to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a) (13), HRS.

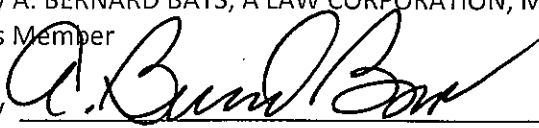
For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report as amended, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report as amended, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report as amended and the exhibits attached to this report (if any) as amended and all documents to be furnished by the Developer to purchasers concerning the project have been reviewed by the Developer and are, to the best of the Developer's knowledge, information and belief, true, correct and complete. The Developer hereby agrees promptly to amend this report as amended to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report as amended at least 30 days prior to the anniversary date of the effective date of this report.

WAIALUA BEACH LAND COMPANY MAKAI LLC, a Hawaii limited liability company

By ABB INVESTMENT LLC, a Hawaii limited liability company
Its Member

By A. BERNARD BAYS, A LAW CORPORATION, MONEY PURCHASE PENSION PLAN
Its Member

By 
A. BERNARD BAYS
Its Trustee

Dated: 5/15/13

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

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

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1.9 Common Elements

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

Described in Exhibit A .

Described as follows:

Common Element	Number
Elevators	
Stairways	
Trash Chutes	

1.10 Limited Common Elements

Limited Common Elements: A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.

Described in Exhibit B .

Described as follows:

1.11 Special Use Restrictions

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

<input type="checkbox"/>	Pets:
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Exhibit C
<input type="checkbox"/>	There are no special use restrictions.

1.12 Encumbrances Against Title

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

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

Date of the title report: June 25, 2013

Company that issued the title report: Title Guaranty of Hawaii, Inc.

2. PERSONS CONNECTED WITH THE PROJECT

2.1 Developer(s)	Name: Waialua Beach Land Company Makai LLC Business Address: 1099 Alakea Street, Ste. 1600 Honolulu, Hawaii 96813 Business Phone Number : 808-523-9000 E-mail Address: bbays@legalhawaii.com
Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).	Member: ABB Investment LLC Sole Member: A. Bernard Bays, a Law corporation Money Purchase Pension Plan
2.2 Real Estate Broker	Name: Mary Worrall Associates Business Address: 4211 Waialae Avenue, Suite 100 Honolulu, HI 96816 Business Phone Number: (808) 478-2568 E-mail Address:
2.3 Escrow Depository	Name: Title Guaranty Escrow Services, Inc. Business Address: 235 Queen Street, 1st Floor Honolulu, HI 96813 Business Phone Number: (808) 521-0211
2.4 General Contractor	Name: N/A Business Address: Business Phone Number:
2.5 Condominium Managing Agent	Name: Self-managed by the Association Business Address: Business Phone Number:
2.6 Attorney for Developer (as to this Amendment 1 to DPR only)	Name: The Grad Law Firm Business Address: 841 Bishop Street, Suite 1800 Honolulu, Hawaii 96813 Business Phone Number: (808) 521-4757

5. SALES DOCUMENTS

5.1 Sales Documents Filed with the Real Estate Commission

<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u> G </u> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: December 20, 2013 Name of Escrow Company: Title Guaranty Escrow Services, Inc. Exhibit <u> H </u> contains a summary of the pertinent provisions of the escrow agreement.
<input type="checkbox"/>	Other:

5.2 Sales to Owner-Occupants

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

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

5.3 Blanket Liens

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

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

Type of Lien	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage, Security Interest & Fixture	The lien is superior to the interests of the buyers apartments and
Filing	foreclosure of the lien would foreclose buyer's interest.
Assignment of Lessor's Interest in Leas	es -If buyer's interest is foreclosed, buyer's deposit will be returned, less
	buyer's share of any escrow cancellation fees

5.4 Construction Warranties

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

Building and Other Improvements:	N/A
Appliances:	N/A

Exhibit D
Encumbrances Against Title

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance.
3. DESIGNATION OF EASEMENT "75", for access and utility purposes, as shown on on Map 97, as set forth by Land Court Order No. 169919, filed March 27, 2007, as amended by Land Court Order No. 170056, filed April 5, 2007 in favor of Lot 776-B.
4. DESIGNATION OF EASEMENT "79", for pedestrian foot path purposes, as shown on Map 97, as set forth by Land Court Order No. 169919, filed March 27, 2007, as amended by Land Court Order No. 170056, filed April 5, 2007 in favor of Lots 776-A and 776-B.
5. The terms and provisions contained in the DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "WAIALUA BEACH COLONY MAKAI" CONDOMINIUM PROJECT, dated October 15, 2008, filed as Land Court Document No. 3802382. (Project covered by Condominium Map No. 1976 and any amendments thereto.)

Said Declaration was amended and restated by instrument dated December 2, 2008, filed as Land Court Document No. 3810565. First Amendment of Amended and Restated Declaration of Condominium Property Regime dated February 9, 2009, filed as Land Court Document No. 3833120.
6. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS, dated October 20, 2008, filed as Land Court Document No. 3802383.
7. MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING in favor of CENTRAL PACIFIC BANK, a Hawaii corporation, dated May 30, 2006, filed as Land Court Document No. 3436851.
8. ASSIGNMENT OF LESSOR'S INTEREST IN LEASES in favor of CENTRAL PACIFIC BANK, a Hawaii corporation, dated May 30, 2006, recorded as Document No. 2006-104330.
9. FINANCING STATEMENT in favor of CENTRAL PACIFIC BANK, a Hawaii corporation, recorded on June 6, 2006 as Document No. 2006-104331.

AMENDMENT recorded as Document No. 2011-077551 on May 12, 2011.
10. The terms and provisions contained in the DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR WAIALUA BEACH COLONY, dated --- (acknowledged October 15, 2008), filed as Land Court Document No. 3798936.

Said Declaration was amended by instrument dated March 15, 2013, filed in said Office as Land Court Document No. T-8481396.

Exhibit G
Summary of Pertinent Provisions of Sales Contract

The following is a summary of certain provisions in the specimen sales contract that Developer has furnished the Real Estate Commission. Prospective buyers of a unit in the project are urged to read the entire sales contract, rather than to rely on this summary.

1. When Sales Contract Becomes Binding. The sales contract becomes binding when:

(a) The Real Estate Commission has issued an effective date for a Public Report for the Project and Developer has met the requirements of Section 514B-86, HRS;

(b) The buyer under the sales contract has receipted for or been deemed to have receipted for a Public Report; and

(c) The buyer under the sales contract shall have waived or be deemed to have waived such buyer's right to cancel the sales contract as more particularly provided in HRS §514B-86.

2. Buyer's qualifying for Purchase. (a) Buyer's obligation to purchase is not subject to the buyer's obtaining financing.

(b) Buyers are required to submit to Developer within twenty (20) days of the date of Developer's acceptance of a sales contract, evidence of proof of funds in the amount of the purchase price, and/or any other financial data reasonably satisfactory to Developer. Satisfactory evidence of proof of funds mean statements of a bank, brokerage or other institutional depository evidencing deposit of sufficient funds to the pay the full amount of the purchase price.

(c) Developer has fifteen (15) days after receipt of such financial data to notify buyer of Developer's acceptance or rejection of such proof as adequate to proceed with the sale of the unit to buyer. If such proof of funds is not produced by buyer as requested by Developer or Developer rejects such proof of funds because it is not adequate, Developer may, in its sole discretion, terminate the sales contract and cause Escrow to refund to buyer all amounts paid pursuant the sales contract, less the cost of any credit report, cancellation fees of Escrow, if any, and other costs incurred by Developer in reviewing such financial statement.

3. Reconfirmation of Cash Purchase; Developer's Option to Terminate. (a) Confirmation of Buyer's Financial Ability. Buyer is required to submit to Developer within fifteen (15) calendar days prior to the estimated closing date, such written evidence as Developer may reasonably request from buyer's bankers or accountants or other persons to reconfirm that buyer is still able to pay the purchase price in cash or has a binding commitment for financing to pay the purchase price.

(b) Developer's Approval.

(1) If Developer, in its sole discretion, after reviewing the written evidence referred to in Section 2(a) above, is not satisfied as to buyer's continued ability to pay the purchase price in cash, or that buyer has a binding commitment to finance payment of the purchase price, or a combination of both of the foregoing, and if Developer determines that buyer has not acted in good faith or otherwise complied with the requirements to submit financial information, then,

and in such event, buyer shall be in default under the sales contract, and Developer may terminate the sales contract, and exercise its remedies under the sales contract.

- (2) If Developer determines that buyer does not have the continued ability to pay the purchase price, but has at all times acted in good faith in seeking to fully comply with buyer's obligations under the sales contract, then, Developer has the right and option to cancel the sales contract upon written notice to buyer; *provided, however*, that upon such cancellation, Developer shall direct Escrow to refund to buyer, all sums paid by buyer pursuant to the sales contract, less any cancellation fees of Escrow and any other actual expenses incurred by Developer by reason of buyer entering into the sales contract.

4. **Developer's Right to Change Purchase Price of Unsold Units.** Notwithstanding anything to the contrary in the sales contract, Developer expressly reserves the right, from time to time, to increase or decrease the listed purchase price of any unsold unit.

5. **Buyer's Rescission Rights.** Buyer shall have the right to rescind the sales contract only if there is a material change in the Project which directly, substantially and adversely affects the use or value of the unit or the limited common elements appurtenant thereto, *provided, however*, that buyer does not have the right to rescind the sales contract if there is any change, addition, deletion or modification, or any merger of the Project pursuant to the terms of the Declaration.

6. **Cancellation in the Event of Buyer's Death.** If buyer, or, if there is more than one buyer, anyone or more of such buyers, dies prior to Closing, Developer reserves the right in its sole discretion to return all deposits paid under the sales contract by buyer, less Escrow's cancellation fee; whereupon the sales contract shall be deemed to have been canceled and both Developer and buyer shall be released from all obligations and liabilities hereunder.

7. **No Interest on Funds Deposited with Escrow Agent.** (a) No interest shall be paid on buyer's deposits.

(b) All funds received by Escrow Agent from Buyer may be held together with other funds received by Escrow.

8. **Buyer's Assumption of Risks.** The Unit and its appurtenant limited common elements and all common elements are to be conveyed "As Is", Where Is" without any warranties or representations as set forth in the Sales Contract. Buyer accepts and assumes among other things the following risks with respect to the unit, its appurtenant limited common elements and all common elements:

(a) Buyer accepts the risk of flooding from the ocean or surface water and the risk of damage caused by ocean water action. Buyer acknowledges the Project is located in flood, tsunami, coastal high hazard and/or other flood district and/or zone established by the City and County of Honolulu, Hawaii, State or federal governments and the legal consequences of such classification, including, without limitation, building restrictions and requirements and the unavailability of flood hazard and/or other insurance coverage.

(b) Buyer accepts the condition of the soil on and geophysical condition of the Project and all risks associated with the foregoing.

(c) The risk that adjoining or nearby property owners may use their property in such a way that could adversely affect the use, value or desirability of the unit, its appurtenant limited common elements, or common elements of the Project.

(d) The Project is located in a Special Management Area under the Hawaii Coastal Zone Management Act, HRS Chapter 205A, and Chapter 25 of the Revised Ordinances of Honolulu relating to Special Management Areas. Provisions of these laws apply to construction of dwellings or other activities in the Project. Buyer expressly assumes the risks of the application of these laws to buyer's unit, its appurtenant limited common elements and common elements of the Project.

(e) Buyer understands that the Project is subject to the shoreline setback established in accordance with Chapter 23 of the Revised Ordinances of Honolulu and HRS Chapter 205, and accepts and assumes all risks and limitations relating to the Project within the shoreline setback, and the effect of the shoreline setback on the unit and its appurtenant limited common elements.

(f) Buyer accepts and assumes all risks relating to the location, establishment and determination of the shoreline boundary for the unit and its appurtenant limited common elements.

(g) There could be issues regarding the source of the water, the quantity and quality of the water, and the size and condition of the transmission pipes that could adversely affect the potential water supply for the Project. Water hook-ups for the units could be denied or limited. These risks and all other risks regarding the water supply for the unit, its appurtenant limited common elements and the common elements of the Project are all assumed by buyer. Buyer assumes the risk that buyer's use and enjoyment of the unit and its appurtenant limited common elements may be adversely impacted by improvements or activities in the Project or on other nearby properties.

(h) Buyer assumes the risk that changes in governmental laws, rules and regulations or their enforcement may adversely impact buyer's use and enjoyment of the unit, its appurtenant limited common elements and the common elements of the Project.

(i) Buyer assumes the risk that use of the common elements in the Project may adversely impact buyer.

9. **Default; Liquidated Damages; Delays in Closing.** (a) Default by Buyer. Buyer will be in default under the sales contract if any of the following occurs:

- (1) buyer fails to make a payment when due, or
- (2) buyer fails to furnish Developer satisfactory evidence of buyer's ability to pay the purchase price; or
- (3) buyer fails to execute and return the receipt and notice of right to cancel in connection with buyer's receipt of a copy of the Public Report within 30 days; or
- (4) buyer fails to perform any other obligation required under the Purchase Contract and such failure continues for ten(10) days after Developer gives written notice to buyer of such failure; or

(5) buyer breaches the provisions of sales contract prohibiting assignments.

(b) Default by Buyer Prior to Purchase Contract Becoming Binding. In the event of any default by buyer which occurs before the sale contract becomes a binding contract in accordance with HRS §514B-84, Developer may, at Developer's option, terminate the sale contract by written notice to buyer, and the following shall apply:

- (1) All moneys paid under the sales contract shall be refunded or the check returned to buyer, all payments previously made by buyer less any cancellation fee imposed by Escrow and any other actual expenses incurred by reason of buyer having signed the sales contract; and
- (2) All costs, including, without limitation, reasonable attorneys' fees, incurred by reason of the default by buyer shall be paid by buyer promptly upon Developer's demand therefor.

(c) Default by Buyer After Purchase Contract Becomes Binding.

(1) Cancellation. In the event of any default by buyer which occurs after the sales contract becomes a binding contract in accordance with HRS §514B-86, Developer may at its option cancel the sales contract. Buyer agrees that if Developer exercises its option to cancel the sales contract, the injury to Developer will be uncertain as to nature and amount and difficult to ascertain in view of, but not limited to, the following:

- (A) Developer's financial commitments with respect to the Project;
 - (B) the connection between the sale, cancellation or such default with respect to one unit and the sale, cancellation or any default with respect to other units in the Project; and
 - (C) the nature of the real estate market in Hawaii.
- (2) Developer's Liquidated Damages. As a reasonable estimate of Developer's damages resulting from any default occurring after the sales contract becomes a binding contract, the sums previously paid by buyer under the sales contract together with all accrued interest thereon shall become, at Developer's option, the sole property of Developer as liquidated damages and not as a penalty for such default. It is understood that the damages suffered by Developer by virtue of such a default later in time will likely be greater than such a default occurring at an earlier point in time. If Developer does not elect to retain as liquidated damages the sums previously paid by buyer under the sale contract, Developer may pursue any other remedies permitted at law or in equity, including, without limitation, specific performance of buyer's obligation to purchase the unit for the purchase price.
- (3) Developer's Alternative Remedies. Damages suffered by Developer by virtue of a buyer default later in time will likely be greater than such a default occurring at an earlier point in time. Therefore, Developer may elect not to exercise its right to liquidated damages, and instead, Developer may pursue any other remedies permitted at law or in equity, including, but not limited to, specific performance.

(d) Default by Developer; Developer's Cure Rights. If Developer fails to perform any obligation required of Developer under the sales contract prior to Closing, including, the obligation to execute promptly all documents necessary to close the transaction, Buyer shall notify Developer in writing of such default by mail. Developer shall have ten (10) days after the date of such notice to cure such default. If Developer does not cure such default within such 10-day period buyer's sole and exclusive remedy shall be to terminate the sales contract. Buyer shall give written notice to Developer of buyer's election to terminate the sale contract, whereupon buyer may exercise buyer's remedies under the sales contract.

(e) Buyer's Remedies. If buyer elects to terminate the sales contract due to Developer's default above, the full amount of buyer's deposits, and all interest actually accrued thereon, shall be paid to buyer as its sole and exclusive remedy, buyer shall have no other rights or remedies whatsoever, including, without limitation, claims for damages or specific performance of the sales contract by Developer, and Developer shall be released and discharged from any and all further obligations whatsoever under the sale contract.

10. **Assignability.** (a) Prohibition Against Certain Assignments by Buyer. The sales contract cannot be assigned by buyer without the prior written consent of Developer, which consent may be withheld by Developer for any reason, in Developer's sole discretion; *provided, however,* that buyer may assign the sales contract to a revocable living trust of which buyer is the settlor, and buyer's personal representative or successor trustee may acquire the unit pursuant to the sales contract following buyer's death if Developer does not exercise its option to cancel the sales contract following buyer's death. Any assignment, attempted assignment or purported assignment of buyer's right, title and interest hereunder without such consent shall be null and void, and shall constitute a material breach of the sales contract.

(b) Assignment to Buyer Affiliate. Buyer shall have the right to designate an affiliate as its nominee to receive title to the unit, or assign all of its right, title and interest in the sales contract to any affiliate, by providing written notice to Developer; *provided, however,* that the following shall apply to any such assignment:

- (1) buyer shall not be released from any of its liabilities and obligations under the sales contract by reason of such designation or assignment prior to the closing; and
- (2) such affiliate shall be deemed, for all purposes, to have assumed the obligations of buyer under the sales contract.

EXHIBIT I
Summary of Pertinent Provisions of Waialua Beach Colony
Declaration of Protective Covenants, Conditions and Restrictions

1. Definitions. All terms used in this summary have the same meanings such terms are assigned in the CC&Rs.

2. Common Areas.

 a. Community Rules. The manner in which the Common Areas may be used will be subject to the Community Rules as adopted by the Developer, and as the WBC Association may amend and promulgate from time to time, including, without limitation, rules and regulations which may restrict vehicular traffic on any paved surfaces therein to vehicles of a certain size; limit or prohibit bicycle or equestrian use; or restrict the times of use or operation.

 b. Common Area Easements. The Owners of Lots and Units that are subject to Common Areas must not construct, install or make any improvement, or permit any condition to exist, on any portion of such Common Areas situated within such Owner's Lot or Unit which may prevent, obstruct, interfere or hinder the use of any part of such Common Areas for the intended purpose of such Common Areas without the prior written consent of the Board.

3. Dwelling Units Limited to Single Family Residences. Dwelling units on the Lots are be limited to Single Family Residences. The maximum number of Single Family Residences shall be two (2) on each of Lots 776-A, 776-B and 776-C, being the Lots more particularly described in said DPCCR, provided, however, that Declarant may restrict to one the maximum number of Single Family Residences on Lot 776-A by providing such in the first deed of Lot 776-A from the Declarant to a Person who is not an Affiliate of Declarant.

4. Prohibited Uses. No Owner, lessee, tenant, occupant, or other Person having any interest in a Lot may, directly or indirectly, use the Project or any part thereof for bed and breakfast establishments; boarding facilities, rooming, or lodging houses; multiple-family dwellings; group living facilities; the promotion or sale of time share interests, or sale, transfer or contribution to any membership club or plan; sales by auction or lottery; or for the operation of a tour or activity desk or any other business that directly or indirectly promotes the sale of time share interests; provided, however, that fractional ownership of a Lot or Unit by six Persons or less which does not constitute a Time Share Plan under Chapter 514E, HRS is permitted.

5. Refuse. Owners will dispose of all trash and refuse in the Refuse Facilities located on Common Area D, and will not maintain exterior refuse facilities on their Lots or the Limited Common Element Land Areas appurtenant to their Units.

6. Design and Construction of Improvements; Design Guidelines.

 a. Design Guidelines.

 i. Generally. The Design Guidelines, as the same may be modified, amended or otherwise changed governs the design and construction of all Single Family Residences, other improvements, and landscaping on the Land.

ii. Adoption and Amendment.

(1) The Developer has the right and authority to adopt Design Guidelines.

(2) The Design Committee may from time to time amend the Design Guidelines, including, without limitation, the procedures for review and approval of plans as set forth therein. A copy of all such amendments, as the same from time to time may be adopted, amended, or repealed, certified by the Design Committee, will be available at all times at the office of the WBC Association for inspection by any Owner, and any Architect or agent of such Owner.

(3) The Design Guidelines are intended to supplement the CC&Rs, and in the event of any conflict between any provision of the CC&Rs and the Design Guidelines, the CC&Rs govern and control.

iii. Developer's Reserved Right to Modify Design Guidelines. Developer reserves the right, to make reasonable modifications to the Design Guidelines to facilitate the planning and development of the Land for any of the following reasons:

(1) to comply with laws, ordinances, rules or regulations of the City and County of Honolulu or any administrative division thereof;

(2) as required by any City and County of Honolulu administrative agency or court having jurisdiction over the Land;

(3) as is reasonably necessary to satisfy engineering or architectural feasibility requirements of such development; and

(4) as necessary to implement Developer's intent in establishing such Design Guidelines.

7. Drainage.

a. Obligation of Owner to Keep Drainage Area Clear. Each Owner of any interest in a Lot or Unit must keep all Drainage Easements and Drainage Facilities located on such Lot or Unit free and unobstructed for the flowage of surface waters and in good repair, and if any Owner constructs any improvements, including driveways, within any Drainage Easement located on such Owner's Lot or Unit, the Owner must construct or install Drainage Facilities as may be required to permit the free flowage of waters through such Drainage Easement. No Owner may permit to be constructed on such Owner's Lot or Unit any improvements which will create a problem of flooding, erosion or interference with natural water flow or runoff damaging to such Owner's Lot, Unit or other adjacent properties, nor may any Owner fail to reasonably act so as to minimize runoff damage or interference with the natural flow of storm waters.

b. Obligation of Owner for Uncured Flood Damage. In the event any government agency, the WBC Association or Owner determines that any alteration and/or disturbance by any Owner of a Lot or Unit, resulted in increased flood damage to such Lot or Unit such Owner has full responsibility

and liability for such increased flood damage and will indemnify the Developer, the Lot or Unit Owner and the WBC Association from and against all claims, demands, and complaints resulting therefrom.

c. Obligation of Owner for Failure of Drainage Facilities. In the event any government agency, the WBC Association determines that any action or inaction by another Owner resulted in any failure of any Drainage Facilities to operate as designed and/or any alteration of a Lot or Unit or construction of improvements on a Lot or Unit caused any injury or destruction, damage or harm to property, such other Owner will accept full responsibility and liability for such injury, damage and harm and will indemnify and defend the Developer and the WBC Association from and against all claims, demands, and complaints resulting therefrom including reasonable attorneys' fees.

8. Lateral and Subjacent Support. No Owner of any interest in a Lot or Unit may permit the existence of any condition on such Lot or Unit which would undermine the lateral and subjacent support of any adjoining or abutting Lot or Unit or any adjoining property and such other owner must indemnify and defend the owner of such Lot, Unit or adjoining property from and against all claims, demands, and complaints resulting therefrom including reasonable attorneys' fees.

9. Community Rules. The Community Rules constitute the rules and regulations of the WBC Association which govern the use of all Lots and Units. No Owner and no Owner's Guests may use or permit the use of any Lot or Unit in violation of the Community Rules.

10. Maintenance and Repair.

a. Removal of Trash, Debris. All Lots, Units and improvements thereon must be maintained by the Owner thereof in good and clean condition and repair, clear of all trash, rubbish and other debris.

b. Maintenance of Improvements, Landscaping. After the construction of any improvements and installation of landscaping on any Lot or Unit in accordance with plans and specifications approved by the Design Committee, such improvements and landscaping must be maintained in good and clean condition and repair in accordance with such approved plans and specifications.

c. Limitation on Tree, Plant Heights. All trees, shrubbery and other plants on any Lot or Unit must be kept at reasonable heights as contemplated by the original landscaping plans therefor, so as not to unreasonably obstruct views from other Lots or Units. Shrubby will generally be limited to a height of three feet (3') above ground level in order to maintain an open, spacious appearance of the Land.

11. Right of Developer to Conduct Sales Activities. Notwithstanding anything contained in the CC&Rs to the contrary, as long as any portion of any Lot is owned by the Developer or any of its Affiliates or designees, the Developer has the right to use such Lot(s) or Unit(s) for conducting extensive sales activities of Lots and Units including, without limitation, using such Lot or Unit for parking, signs, model units, sales and management offices, and other sales displays and activities.

12. Easements.

a. Easements in Common Area. Developer grants to each Owner and each Owner's family, lessees, tenants, guests, and invitees, a nonexclusive right and easement of use, access, and enjoyment of, in, and to the Common Areas.

b. Use of Common Areas. The Association has the right to use the Common Areas for repair, maintenance, upkeep and landscaping purposes and the Association may grant an Owner or Owners the exclusive right to use and maintain all or a portion of the Common Areas.

c. Lateral and Subjacent Support. Each Lot and Unit is subject to easements for the lateral and subjacent support of adjoining or abutting such Lot or Unit.

d. Easements for Installation and Maintenance of Infrastructure, and Landscaping.

i. Reservation of Easement. Developer reserves to itself, for so long as Developer owns any Lot or Unit, and grants to the WBC Association, perpetual, non-exclusive easements on the Land to the extent reasonably necessary for the purpose of the following:

(1) Installing utilities and infrastructure to serve the Lots and Units, including, but not limited to water systems, water reclamation facilities, waste water systems and facilities, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, driveways, walkways, pathways and trails, drainage systems, irrigation systems, street lights and signage;

(2) Establishing and creating landscape, natural vegetation, open space, and view easements on portions of the Lots and Units owned by Developer or within Common Areas for the benefit of the Lots or Units or the Owners thereof;

(3) Inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements; and

(4) Reading utility meters.

13. Developer's Right to Market and Sell Lots and Units. During the Development Period, Developer has the right and authority to construct such facilities and engage in such activities upon portions of the Common Areas or any part of the Land owned by Developer as Developer may determine are reasonably required, convenient, or incidental to the construction or sale of Lots and Units including, but not limited to, the construction and maintenance of business offices, signs, model units, and sales offices. Developer, and Developer's members, partners, employees, contractors, agents, guests, and invitees has easements for access to and use of such facilities at no charge.

14. Developer's Right to Develop Lots and Units. During the Development Period, Developer has the right and easement to engage in activities for the development of Lots and Units including, without limitation, cutting, grubbing, and grading such properties, construction activities, surcharging, and hauling from and to such properties.

15. Developer's Right to Dedicate Lots. Developer has the right and power, without having to obtain the consent or approval of the WBC Association, any Owner or any other Person, to grant or dedicate any Lot or Unit owned by Developer or constituting any portion of the Common Areas, to the

State of Hawaii, the City and County of Honolulu, any Utility Company, or the WBC Association, and in connection therewith, Developer reserves the right to subdivide, and to consolidate and resubdivide, any Lot including the Common Areas in connection with the conveyance or dedication of a portion of such Lot to the City and County of Honolulu or State of Hawaii.

16. The WBC Association.

a. Membership. Each Owner will be a Member of the WBC Association. A Person will cease being a Member when such Person no longer is an Owner. By acceptance of a deed of a Lot or a Unit, a Person acquiring title to such Lot or Unit will be deemed to have consented to becoming a member of the WBC Association and will remain a member so long as such Owner owns a Lot or Unit in the Project and have no right, power or authority to resign or otherwise relinquish such membership.

b. Board of Directors. The affairs of the WBC Association will be managed by the Board of Directors.

c. Owner Voting Rights. Each Lot has up to two (2) votes if such Lot has 2 residential Units. The Owner of each Unit on a Lot has one (1) vote. Each Lot which has not been submitted to a condominium property regime has one (1) vote.

d. Rights of Members. Each Member of the WBC Association, by virtue of such membership, has the right to use in common with all other Members, all Common Areas and other WBC Association Property, subject to the provisions of the CC&Rs, and the Community Rules.

e. Maintenance of WBC Association Property. The WBC Association is obligated to provide for the reasonable care, operation, management, maintenance, repair and replacement of WBC Association Property and the Common Areas. Without limiting the generality of the foregoing, said obligations shall include keeping WBC Association Property in good, clean, attractive and sanitary condition, order and repair; repairing wind and other damage caused by the elements; and making necessary or desirable alterations, additions, betterments or improvements to or on WBC Association Property.

f. Managing Agent. The WBC Association may, but shall not be required to employ a Managing Agent to manage all affairs of the WBC Association.

17. WBC Association Functions. The WBC Association may undertake or contract for any lawful activity, function or service for the benefit of its Members including the following:

a. Personal Property of WBC Association. The WBC Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

b. Real Property of WBC Association. The WBC Association shall accept fee simple title to, or a leasehold, subleasehold or easement interest in, all real property from time to time conveyed to it by or at the direction of Developer or by an Owner, provided that the WBC Association need not accept any such real property subject to any lien upon such real property securing or evidencing an obligation to pay money except a lien for non-delinquent real property taxes and assessments.

c. Enforcement of Rules. The WBC Association has the right to enforce any of the rules and regulations of the WBC Association and the obligations of any Member under the CC&Rs or any provision of the Articles or WBC By-Laws including the imposition of reasonable fines and penalties, and the imposition of reasonable restrictions on such Owner and if any such violation continues for a period of ten (10) days after written notice of such violation has been given to such Member, such continuing violation will be deemed to be a new violation and will be subject to the imposition of penalties.

d. Obligation to Maintain Drainage Facilities. The WBC Association will at all times, as a Common Expense, maintain, repair and keep in good condition and repair, all Drainage Facilities located within Common Areas of the Project.

e. Obligation to Maintain Water Facilities. The WBC Association shall at all times, as a Common Expense, maintain, repair and keep in good condition and repair, the individual water meters or sub-meters for the Lots and Units, and all Water Facilities located on WBC Association Property.

f. Obligation to Maintain Landscaping. The WBC Association will install and maintain all landscaping, grasses, trees, shrubs, vegetation, and other landscaping elements within the Common Areas of the Project unless such duties are delegated to an Owner.

g. Obligation to Maintain Common Utilities. The WBC Association will as a Common Expense, maintain the fire hydrants, irrigation equipment, and other utility facilities serving the Land which are located on the Common Areas.

18. WBC Association Assessments

a. Description of Assessments. The WBC Association may specifically authorize assessments from time to time. There shall be three types of Assessments:

- i. General Assessments to fund Common Expenses;
- ii. Supplementary Assessments; and
- iii. Special Assessments.

b. Owner's Covenant to Pay Assessments. Each Owner, by accepting a deed or entering into a recorded agreement of sale for the acquisition of any Lot or Unit will be deemed to have covenanted and agreed to pay Assessments as and when provided for under the CC&Rs.

c. Nature of Assessments. All Assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorneys' fees, will be a charge and continuing lien upon each Lot or Unit against which the Assessment or charge is made until paid.

d. General Assessments. The WBC Association will prepare an annual budget covering the estimated general assessments for Common Expenses for the coming year.

i. Allocations. The total General Assessments for Common Expenses shall be divided among the Lots in proportion to the gross land area of such Lots. The General Assessments allocations shall be as follows:

Lot	General Assessment Allocation
776-A	16.76%
776-B	33.52%
776-C	49.72%
TOTAL	100.00%

ii. Accrual and Payment. General Assessments shall commence to accrue on all Lots and/or Units which are not exempt from Assessments and initially subject to the CC&Rs on the date which is the first day of the first calendar month following the conveyance of the first Lot or Unit to an Owner other than Developer, and shall be due and payable in such manner and on such schedule as the WBC Association may provide from time to time. General Assessments shall be adjusted for such Lots and Units according to the number of months then remaining in the then-fiscal year of the WBC Association.

e. Supplementary Assessments. In addition to other authorized Assessments, the WBC Association may levy Supplementary Assessments. Any such Supplementary Assessments shall be levied against all Lots and Units not exempt from Assessments equally.

f. Special Assessments. The WBC Association has the power to levy Special Assessments against any Lot or Unit not exempt from Assessments; provided, however, that the WBC Association shall give the Owner of such Lot(s) or Unit(s) prior written notice and a reasonable opportunity to provide evidence and reasons why such Owner should not be assessed any such Special Assessment before levying any Special Assessment, except Special Assessments levied.

g. Interest and Late Fees. The WBC Association has the right to charge interest (at a rate not to exceed any maximum permitted by law), and reasonable late fees in amounts established by the Board, for any Assessments which are not paid when due.

h. Lien for Assessments. The WBC Association has a lien against each Lot and Unit to secure payment of delinquent Assessments and other charges, as well as interest, late fees, attorneys' fees and other costs and expenses due to the WBC Association charged, and costs of collection and reasonable attorneys' fees. Such lien, when delinquent, may be enforced by suit, judgment, or foreclosure in the same manner as mortgages are foreclosed under the laws of the State of Hawaii.

i. Dispute By Owner.

i. Procedure for Contest. Any Owner may dispute the amount and/or validity of an Assessment claimed by the WBC Association in accordance with the following procedure:

(1) Owner's Request for Written Statement. Any Owner who disputes the amount of any Assessment on such Owner's Lot or Unit may request from the WBC Association, and the WBC Association shall provide, a written statement setting forth the following:

(a) the total amount of interest, late fees, lien filing fees, attorneys' fees and costs, if any, and any other charge included in the Assessment;

(b) that such Owner may submit the dispute regarding the amount or validity of the Assessment to mediation or arbitration, provided that the Owner has paid the Assessment in full and keeps the payment of Assessments current; and

(c) that payment in full of the Assessment does not prevent the Owner from contesting the Assessment or receiving a refund of amounts not owed.

(2) Mediation and Arbitration.

(a) An Owner who pays the WBC Association the full amount of the Assessment claimed by the WBC Association, including all interest, late fees, lien filing fees, attorneys' fees and costs, and any other charge billed to such Owner by the WBC Association, may submit the dispute concerning the amount or validity of the Assessment to mediation, or the Owner may file a demand for arbitration.

(b) If the Owner submits the dispute to mediation and the Owner and WBC Association shall fail to resolve the dispute through mediation, either party may seek to resolve such dispute by arbitration as provided in Chapter 658A, HRS, as amended.

(c) After the arbitration proceeding has been dismissed all amounts claimed by the WBC Association shall be due and payable in full, and such Owner shall not have the right to dispute the amount or validity of the Assessment which had been the subject of the mediation or arbitration proceeding.