

IMPORTANT - - Read This Developer Prepared Report Before Buying

This Report Is Not a Commission Approval or Disapproval of This Condominium Project

DEVELOPER'S PUBLIC REPORT FOR A CONDOMINIUM

CONDOMINIUM PROJECT NAME	SEACLIFF KILOHANA
Project Address	Makana'ano Place, Kilauea, Kauai, Hawaii
Registration Number	8078
Effective Date of Report	January 18, 2018
Developer(s)	Seacliff Kilohana, LLC

Preparation of this Report

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

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

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

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

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

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

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

Special Attention - - Significant Matters

[Use this page for special or significant matters which should be brought to the purchaser's attention. At minimum "Subject Headings" and page numbers where the subject is explained more may be used.]

The developer's inclusion of a disclosure or an explanation of any or all of the following applicable significant matters in this part of the developer's public report shall not be construed to constitute the Commission's:

- **Approval or disapproval of the project;**
- **Representation that the developer has fully or adequately disclosed either all material facts or all pertinent changes, or both, concerning the project;**
- **Representation that the developer's disclosures of other material facts elsewhere in this report is less important; or**
- **Judgment of the value or merits of the project.**

The commission reserves the right to request that the developer include these special and significant matters elsewhere in the developer's public report.

1) NOT A SUBDIVISION. This is a condominium project ("Project"), which should NOT be confused with a subdivision. This Project does NOT involve the sale of individual subdivided lots. The dotted lines and land areas within such lines on the Condominium Map designate the areas of two condominium units, and do NOT constitute lot lines corresponding to legally subdivided lots. Purchasers are advised to consult their attorney as to the differences between a subdivision and a condominium property regime.

Because this Project is not a subdivision, improvements often associated with subdivisions (including but not limited to fire hydrants, street lighting, sewer systems, upgraded water facilities, improved access for owner and emergency traffic, storm drains and other drainage facilities) may not be provided, and services often associated with subdivisions (including but not limited to County street maintenance and trash collection, etc.) may not be provided.

Except as provided in this Report, the sales contract, unit deed, and other Project documents, both condominium units consist of vacant land and are sold in "as is" condition; unit owners themselves must apply for utility services (water, electricity, CATV, telephone, internet, etc.) to their unit. The Seacliff Kilohana Declaration of Condominium Property Regime ("Declaration"), which establishes the Project, includes various easements, including those for utility and drainage purposes.

2) The Units. The Project is comprised of two condominium units; each unit is a three dimensional spatial area as described in Exhibit "B" to the Project's Declaration. The units' locations and boundaries are shown on the Condominium Map. The units may include improvements to be constructed, subject to the "Seacliff Plantation Governing Documents" and the "Seacliff Kilohana Governing Documents"; both terms are defined in Declaration §2.2. The purchaser of a unit acquires a fee simple ownership interest in the unit purchased; certain limited common elements, as described in Declaration §5.0, will be appurtenant to each unit purchased.

(CONTINUED ON NEXT PAGE)

3) Compliance with law. The Project is in compliance with state and county land use laws and applicable county real property tax laws. Purchasers shall have a continuing obligation to comply with such land use and real property tax laws.

4) Summary of Various Requirements and Restrictions affecting Construction of Improvements. This paragraph is a partial description of some of the numerous requirements and restrictions that may affect a purchaser's ability to construct various improvements including, but not limited to, farm dwellings and guest houses, (collectively "Improvements") within a unit. THIS SUMMARY IS **NOT INTENDED TO BE COMPREHENSIVE OR COMPLETE**; PURCHASERS ARE ADVISED TO CAREFULLY REVIEW THE REMAINING PARAGRAPHS FOLLOWING THIS SUMMARY, AND THE ENTIRE PUBLIC REPORT, FOR PARTICULAR REQUIREMENTS THAT MAY AFFECT THE CONSTRUCTION OF IMPROVEMENTS (INCLUDING FARM DWELLINGS and GUEST HOUSES) WITHIN THE PROJECT.

a) Seacliff Plantation at Kilauea Bay. The Project is part of a master planned community called *Seacliff Plantation at Kilauea Bay Community*, as such, construction of Improvements are subject to various articles, bylaws, rules, covenants, conditions, restrictions, and design and construction requirements, as described in the *Seacliff Plantation Governing Documents* below. Any improvements (as defined in the foregoing governing documents) must be reviewed and approved by the *Seacliff Plantation at Kilauea Bay Community* design committee before construction.

b) Seacliff Kilohana Governing Documents. In addition to the *Seacliff Plantation Governing Documents*, construction of Improvements is also subject to those design and construction conditions, requirements, and restrictions described in the *Seacliff Kilohana Governing Documents* below. Any improvements (as defined in the foregoing governing documents) must also be separately reviewed and approved by the Project's design (review) committee before construction.

c) State and County Laws. Construction of Improvements is also subject to various restrictions, laws, rules, and regulations arising from the Project's State of Hawaii ("State") land use district designation (Agriculture), the Project's County of Kauai ("County") zoning district designation (Open/ST-R), and the Project's location within the County Special Management Area (SMA).

Because of the Project's State land use district designation, each unit within the Project has the right to construct one single-family "farm dwelling", as defined in Haw. Rev. Stat. chapter 205, and accessory structures as allowed by

law. The County will require a unit owner to enter into a Farm Dwelling Agreement and submit a written farm plan evidencing agricultural use prior to construction of a farm dwelling. The County may require proof that sufficient agricultural activities, as determined by the County, are being conducted before allowing construction of a second farm dwelling in the Project.

As more fully described in section 7.3 of the Project's Declaration, due to the Project's County land use designations, the following discretionary County land use permits are required **prior** to construction of a farm dwelling on each unit:

- As to the first unit to construct a farm dwelling:
 - Use permit; and
 - Class IV zoning permit.

- As to the second unit to construct a farm dwelling:
 - Use permit;
 - Class IV zoning permit; and
 - Special Management Area permit.

PURCHASERS ARE ADVISED TO CAREFULLY REVIEW PARAGRAPHS 7) AND 8) WHICH FOLLOW FOR A MORE COMPREHENSIVE DISCUSSION OF STATE AND COUNTY LAND USE REQUIREMENTS THAT MAY CONSTRAIN THE CONSTRUCTION OF IMPROVEMENTS WITHIN THE PROJECT.

5) Seacliff Plantation at Kilauea Bay. The Project is part of a master planned community development called *Seacliff Plantation at Kilauea Bay Community* and, as such, is subject to certain articles, bylaws, rules, covenants, conditions, restrictions, and other provisions described in the *Seacliff Plantation Governing Documents*, as defined in section 2.2 of the Project's Declaration. The *Seacliff Plantation Governing Documents* include the *Declaration of Covenants, Conditions and Restrictions of the Seacliff Plantation and Kilauea Bay Community* dated August 31, 1983, and recorded with the Hawaii Bureau of Conveyances ("Bureau") in Liber 17405 at page 411. This instrument has been amended several times, as described in Exhibit "A" to the Declaration; it and its amendments are collectively referred to in this Report as the "*Seacliff Plantation CCRs*".

6) Seacliff Kilohana Governing Documents. In addition to the *Seacliff Plantation Governing Documents*, the Project is also subject to certain bylaws, rules, covenants, conditions, and restrictions described in the *Seacliff Kilohana Governing Documents*, as defined in section 2.2 of the Project's Declaration, including the *Declaration of*

Restrictive Covenants and Conditions- Seacliff Kilohana, Kilauea, Kauai, Hawaii dated March 31, 2017 and recorded in the Bureau as Document No. A-63160586 (the "*Seacliff Kilohana CCRs*").

PURCHASERS ARE ADVISED TO CAREFULLY REVIEW THE SEACLIFF PLANTATION GOVERNING DOCUMENTS AND THE SEACLIFF KILOHANA GOVERNING DOCUMENTS AND, WHERE NEEDED, CONSULT LEGAL COUNSEL TO UNDERSTAND THE FOREGOING DOCUMENTS' REQUIREMENTS AND CONTENTS.

7) Restrictions on dwellings, improvements, and uses. . The Project's State Land Use District ("SLUD") designation is *Agriculture*. The Project's County zoning designation is Open/ST-R. The Project is also located in the County Special Management Area ("SMA"). Because of these designations, purchasers are advised that the number, type, and location of dwellings, other structures, and improvements generally that may be constructed within the Project, as well as uses and activities that may be conducted within the Project, are subject to various County of Kauai ("County") and State of Hawaii ("State") restrictions, laws, rules, and regulations (collectively "Development Rules"). These Development Rules are subject to change. Purchasers are advised to consult legal counsel regarding such Development Rules.

Purchasers are also advised that all improvements (including dwellings) constructed within the Project must comply with design, construction, and other guidelines established in both the *Seacliff Plantation Governing Documents* and the *Seacliff Kilohana Governing Documents*, and that the Seacliff Kilohana CCRs require that any "improvement" (as defined in the Seacliff Kilohana CCRs) must be reviewed and approved by the Project's design committee before it may be constructed. Purchasers are advised that *Seacliff Plantation at Kilauea Bay Community's* design committee must also and separately approve of any improvements before they may be constructed. In this vein, the Seacliff Plantation CCRs state:

"The right of an Owner to construct, reconstruct, refinish or alter any improvement upon, under or above any lot or to make or create any excavation or fill thereon, or to make any change in the natural or existing drainage thereof, or landscape said farm dwelling site, is prohibited until and unless the Owner of such lot or farm dwelling site has obtained prior written approval therefor from the Design Committee as herein provided and has otherwise complied with all of the provisions of this Section."

(See section 3.05(b), Seacliff Plantation CCRs. See also Article I, "Definitions" of Seacliff Plantation CCRs for definition of "improvement".)

PROSPECTIVE PURCHASERS ARE ADVISED THAT CONSTRUCTION OF DWELLING UNITS AND ANY GUEST HOUSE ARE SUBJECT TO MANY LAWS AND LIMITATIONS DESCRIBED THROUGHOUT THIS REPORT; AS SUCH, THERE IS NO GUARANTEE PURCHASERS WILL BE ABLE TO SATISFY ALL LEGAL REQUIREMENTS AND CONSTRUCT SUCH DWELLING UNITS OR GUEST HOUSE. MOREOVER, THE DEVELOPER CANNOT GUARANTEE THAT APPLICABLE LAW, ITS INTERPRETATION, OR ITS APPLICATION TO THE PROJECT AND THE UNITS WILL NOT CHANGE IN THE FUTURE. ACCORDINGLY, PURCHASERS ARE STRONGLY ENCOURAGED TO CONSULT WITH THE COUNTY PLANNING DEPARTMENT AND A LAWYER FAMILIAR WITH SUCH MATTERS TO ASSESS THE PURCHASER'S ABILITY TO IMPLEMENT ITS PLANS FOR ANY UNIT PURCHASED.

8) Farm Dwellings, Agricultural Activity, and County Land Use Permits. The Project's State Land Use District ("SLUD") designation is *Agriculture*. Accordingly, Declaration section 7.1 states that Units 1 and 2 in the Project shall each have the right to construct and occupy one single-family dwelling located on or used in connection with a "farm dwelling", as that term is defined in Haw. Rev. Stat. chapter 205, as amended. However, the right to build a farm dwelling is subject to various State and County legal requirements (for example, the County Planning Department's requirements to enter into a Farm Dwelling Agreement and submit a written farm plan evidencing agricultural use) and private requirements including, but not limited to, the *Seacliff Plantation Governing Documents* and the *Seacliff Kilohana Governing Documents*; the Developer does not represent that these requirements are or will be met and therefore that purchasers of units will actually be permitted to build such farm dwellings. PURCHASERS ARE ADVISED TO CONSULT WITH LEGAL COUNSEL AND APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER PURCHASERS MAY BUILD A FARM DWELLING OR OTHER STRUCTURES WITHIN THEIR UNITS AND THE SPECIFIC REQUIREMENTS THAT MUST BE SATISFIED TO CONSTRUCT SUCH IMPROVEMENTS. PURCHASERS ARE ALSO ADVISED TO CONSULT LEGAL COUNSEL AS TO PERMITTED USES OF LANDS AND DWELLINGS THAT MAY OCCUR IN THE STATE AGRICULTURE DISTRICT.

After the first farm dwelling in the Project has been constructed, the County may not permit additional farm dwellings to be constructed unless and until the County, in its discretion, confirms that adequate agricultural activities are being conducted in compliance with submitted farm plans and applicable law. The Seacliff Plantation CCRs also state that "agriculture activity must be established before any additional farm

dwellings in excess of one (1) per parcel will be permitted by the County of Kauai.” See “Farm dwelling” definition in Article I of Seacliff Plantation CCRs. The Developer has established no process to determine which purchaser of a unit may construct the first farm dwelling in the Project. Such order of construction will be based on which unit owner first receives building plan and permit approval and actually constructs a farm dwelling.

If the County finds insufficient agricultural activities are being conducted within the Project, additional agricultural uses and activities by the units may be necessary before farm dwellings or other structures or improvements may be constructed. GIVEN THE PROJECT'S STATE AGRICULTURE DISTRICT DESIGNATION, PURCHASERS ARE ADVISED TO CONSULT WITH LEGAL COUNSEL AND THE COUNTY'S PLANNING DEPARTMENT AS TO AGRICULTURAL USES PURCHASERS MAY BE REQUIRED TO CONDUCT ON THEIR UNIT.

Purchasers are directed to Declaration section 7.1 for a discussion concerning farm dwellings and agricultural uses within the Project, including discussion of the requirements to conduct sufficient agricultural activities under applicable law.

Declaration section 7.3 describes the County land use permits required to construct a farm dwelling given the Project's zoning designation. Section 7.3 states that the County's Planning Department has advised the Developer that an SMA permit is not required for the first unit to construct a farm dwelling within the Project¹; however, certain other permits are required. The purchaser of a unit is advised to consult with legal counsel and the County Planning Department as to whether the Planning Department's policy concerning an SMA permit as to the first unit to construct a farm dwelling remains unchanged. Section 7.3 also states that the second unit within the Project to construct a farm dwelling will be required to obtain an SMA permit, as well as certain other land use permits, prior to construction of a farm dwelling. The County's approval of the land use permits described in Declaration section 7.3 (including SMA permits) is discretionary and subject to a variety of conditions and requirements, including the requirement of a public hearing and the possible requirement to consult with the Kilauea Neighborhood Association as to a unit owner's development plans. The Developer neither warrants nor guarantees that residential dwellings within the SMA will be approved by the Planning Commission. A PURCHASER OF A UNIT IS ADVISED TO CONSULT WITH THEIR LEGAL COUNSEL AND APPROPRIATE GOVERNMENT AGENCIES, INCLUDING THE PLANNING COMMISSION, ABOUT RESTRICTIONS THAT MAY LIMIT OR PROHIBIT THEIR ABILITY TO CONSTRUCT A DWELLING

¹ See Declaration section 7.3.

AND OTHER IMPROVEMENTS IN THE SPECIAL MANAGEMENT AREA, BEFORE PURCHASING A UNIT.

9) Buildable areas within each Unit: Purchasers' attention is directed toward Declaration section 7.4, which states:

“(a) Minimum Setbacks. Unless a greater setback is otherwise provided by law:

(i) Setbacks Required by the CZO. For any future construction of improvements, each owner will observe the minimum setback required by the applicable provisions of the CZO from the perimeter of the unit applied as if the units were separate subdivided lots or parcels; and

(ii) Setback from the Units' Common Boundary.

(A) No improvements whatsoever upon Unit 1 shall be constructed within twenty-five (25) feet of the common boundary of the units or the edges of the Driveway Element.

(B) No improvements whatsoever upon Unit 2 shall be constructed within fifty (50) feet of the common boundary of the units or the edges of the Driveway Element.

(b) Permissible Building Areas.

(i) Semi-Circular Building Area. Subject to subparagraph (ii) below, all structures and improvements within Units 1 and 2 must be constructed and maintained within the semi-circle area shown on the Condominium Map (herein the “Building Area”); the boundary of the Building Area is shown as the *Existing Building Setback Line* shown on the Condominium Map.

(ii) Open Space Easement Area Within Unit 1. Within Unit 1, no buildings or other structures whatsoever shall be constructed within the hatched area shown on the Condominium Map²; further, no other improvements shall be allowed within the hatched area without the prior written consent of the United States of America, through its Department of the Interior, Fish and Wildlife Service.”

The mentioned Open Space Easement area within Unit 1 is more fully described in Declaration section 7.0.

² The hatched area is encumbered by a *Deed of Open Space Easement* dated February 29, 1988 and recorded with the Bureau in Liber 21704 at page 43.

10) Specific Limitations on Use of and Improvements on the Units. Purchasers' attention is directed toward Declaration section 7.6, which states:

“(a) Limitations. Notwithstanding any provision in this Declaration to the contrary, the following uses shall be prohibited on all units:

(i) The keeping or harboring of more than five (5) individual animals of any species as domesticated pets including, but not limited to, dogs, cats, and horses; except that no pit bulls or mix-breed pit bulls may be kept or harbored on the units as domesticated pets;

(ii) Any other non-agricultural commercial uses of the units, except for non-agricultural cottage industries and businesses conducted within the confines of structures within the units referenced in this subsection (a) which do not (1) result in increased noise, fumes or odors, (2) require the presence of customers, employees, or independent service providers on site with resulting additional traffic, or (3) pose a nuisance to neighboring units;

(iii) Short term rental, including use as a tenement or rooming house, rental for bed and breakfast, use for other short term or transient vacation rental or hotel purposes, use for less than 180 consecutive days in exchange for monetary compensation or services, or a unit (or any portion thereof) sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any timesharing purpose as defined in H.R.S. Chapter 514E.

(b) H.R.S. §205-4.6 Compliance. This Declaration, the By Laws and all other documents relating to this condominium do not include any restrictions limiting or prohibiting agricultural uses or activities in compliance with H.R.S. §205-4.6. Any provision in this Declaration or the By Laws or any other document that is contrary to the statement made in the preceding sentence or that could be construed or applied to contain a restriction limiting or prohibiting such agricultural uses shall be void or shall be interpreted and applied in a manner consistent with the preceding sentence.”

11) Driveway common element. The Project's sole common element (the "Driveway Element") consists of 0.067 acres of land, as shown on the Condominium Map, to be used by both units for driveway access and utility purposes.

A Driveway Plan, to be developed by Declarant no later than ninety (90) days after April 17, 2017 and thereafter attached to and incorporated into the Declaration as **Exhibit "E"** to the Declaration, shall provide specifications for (i) construction of a driveway in the Driveway Element, (ii) construction of other improvements related to the driveway, including a gate, lighting and landscaping of the Driveway Element, and (iii) installation of utilities in the Driveway Element. (See Declaration section 4.1).

The Association of Unit Owners of Seacliff Kilohana shall have the authority and duty to construct, manage, maintain, repair, improve and landscape the Driveway Element according to the Driveway Plan; however, while the Declarant or its affiliates own a unit, the Declarant shall also have the authority, but not the duty, described in Declaration section 4.1(b).

In lieu of the Driveway Element being used by Unit 2 for driveway access and utility purposes, Unit 2 may locate and construct a separate driveway within Unit 2 for driveway access and utility purposes solely serving Unit 2, subject to the terms and conditions described in Declaration section 4.1. If Unit 2 elects to locate and construct a separate driveway and satisfies all necessary requirements of Declaration section 4.1 to construct a separate driveway, then the Driveway Element will be converted to a limited common element appurtenant to and for the sole and exclusive use of Unit 1.

Purchasers are referred to Declaration section 4.1 for a detailed discussion concerning the Driveway Element, the effect of the development of an alternate, separate driveway serving Unit 2 only on the Driveway Element, and the conditions that must be satisfied for the Driveway Element to be converted to a limited common element appurtenant to Unit 1.

12) Guest House. If the Project is entitled to construct a *guest house* (as defined under County law), Unit 2 shall have that right. (See Declaration section 7.2.) The right to construct a guest house is subject to numerous legal requirements, and appropriate government authorities (including the County) should be consulted to confirm whether a guest house may be constructed, and to determine the limitations on the construction of such a structure. Both the *Seacliff Plantation Governing Documents* and *Seacliff Kilohana Governing Documents* also contain provisions affecting the construction of a guest house and should therefore also be consulted.

13) Kauai Department of Water Elevation Agreement. Purchasers are advised that because of the high elevation in portions of the Project area, a dependable supply of water cannot be assured above the 375 feet elevation above sea level. Purchasers of units will be required to enter into an elevation agreement with the Kauai County Department of Water ("KDOW") upon applying for water service, and agree to accept such water service as KDOW is able to render. (See "Exhibit A" to Project's Declaration.)

14) Bridging Requirement for Drainage Ditches and Culverts. An existing 15 ft wide easement ("D-1") for drainage purposes (the "drainage ditch") exists along the western

boundary of the Project area, along Makana'ano Place. (See Condominium Map No. 5643 relating to Project.) Purchasers are advised that the Seacliff Plantation CCRs require that driveways or other accesses must be constructed to completely bridge the foregoing drainage ditch so there are no obstructions to water flow through this drainage facility. See section 3.03 (c) of Declaration of Covenants, Conditions and Restrictions dated August 31, 1983, recorded with the Hawaii Bureau of Conveyances in Liber 17405 at Page 11.

15) Electrical power to Units 1 and 2. Purchasers are advised that only single-phase electrical power is available to service the Project's units. See "Declaration re: Electrical Use" in "Exhibit A" to Project's Declaration.

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General Information On Condominiums

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

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

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

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

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

Operation of the Condominium Project

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

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

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

1. THE CONDOMINIUM PROJECT

1.1 The Underlying Land

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	not applicable
Address of Project	Makana'ano Place, Kilauea, Kauai, Hawaii 96754
Address of Project is expected to change because	not applicable
Tax Map Key (TMK)	(4) 5-2-004-084
Tax Map Key is expected to change because	Each unit may be assigned separate CPR numbers
Land Area	≈12.305 acres
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	not applicable

1.2 Buildings and Other Improvements

Number of Buildings	none (Project consists of vacant land)
Floors Per Building	none
Number of New Building(s)	none
Number of Converted Building(s)	none
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	not applicable

1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc)	Total Area
1	one					7.934acre
2	one					4.304acre
See Exhibit "A" and "A-1"						

Two	Total Number of Units
-----	------------------------------

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

1.4 Parking Stalls

Total Parking Stall in the Project:	Ample parking within each unit
Number of Guest Stalls in the Project:	Ample parking within each unit
Number of Parking Stalls Assigned to Each Unit:	Ample parking within each unit
Attach Exhibit _____ specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open).	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights. Not applicable	

1.5 Boundaries of the Units

Boundaries of the unit: Are as described or shown in attached Exhibits "A" and "A-1", and as described in Exhibit "C" to the Declaration.
--

1.6 Permitted Alterations to the Units

Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project): Units may be altered subject to the Project's Declaration, Kauai County Building Code, applicable County zoning ordinances, and building and house rules, if any. Farm dwellings and other "improvements" (as defined in the Project documents) may be built within designated portions of each unit, as shown on the Condominium Map, subject to Project documents.

1.7 Common Interest

Common Interest: Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by unit owners. The common interest for each unit in this project, as described in Declaration, is:
Described in Exhibit <u>n/a</u> .
As follows: Unit 1: 50% Unit 2: 50% (See Declaration section 3.0)

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

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input type="checkbox"/>	Recreation Area
<input type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): Common element for driveway access and utility purposes

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-1" .

Described as follows:
Common element for driveway access and utilities purposes.

Common Element	Number
Elevators	none
Stairways	none
Trash Chutes	none

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 n/a .

Described as follows:
See Declaration section 5.0 and Exhibit B to Declaration.

1.11 Special Use Restrictions

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

<input checked="" type="checkbox"/>	Pets:
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Non-agricultural, commercial uses of units; short-term rentals, vacation rentals, etc.
<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 "B" describes the encumbrances against title contained in the title report described below.

Date of the title report: August 11, 2015

Company that issued the title report: Title Guaranty of Hawaii

1.13 Uses Permitted by Zoning and Zoning Compliance Matters

Uses Permitted by Zoning				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
<input checked="" type="checkbox"/>	Residential	two	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Open/ST-R
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Agricultural		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	State Land Use District Desig
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Other (Specify):		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code			not applicable	

1.14 Other Zoning Compliance Matters

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

1.15 Conversions

<p>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</p>	<p><input type="checkbox"/> Applicable</p> <p><input checked="" type="checkbox"/> Not Applicable</p>
<p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units: not applicable</p>	
<p>Developer's statement of the expected useful life of each item reported above: not applicable</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations: not applicable</p>	
<p>Estimated cost of curing any violations described above: not applicable</p>	

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

1.16 Project In Agricultural District

<p>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii? If answer is "Yes", provide information below.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable state and county land use laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation. (Project consists of vacant land only; no structures currently exist on property)</p>	
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable county real property tax laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.</p>	
<p>Other disclosures and information: Project is in compliance with H.R.S. §205-4.6 (See Declaration section 7.6(b) for compliance statement in relation thereto.)</p>	

1.17 Project with Assisted Living Facility

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

2. PERSONS CONNECTED WITH THE PROJECT

2.1 Developer(s)	Name: SEACLIFF KILOHANA, LLC Business Address: 3762 Keli Place Princeville, Hawaii 96722 Business Phone Number : (347) 804-8059 E-mail Address: jfieldskauai@aol.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).	James Fields
2.2 Real Estate Broker	Name: James O'Connor Business Address: 4244 Kilauea Road Kilauea, Hawaii 96754 Business Phone Number: (808) 639-2533 E-mail Address: joc@oconnor-hawaii.com
2.3 Escrow Depository	Name: Title Guaranty Escrow Services, Inc. Business Address: 235 Queen Street, 1st Floor Honolulu, Hawaii 96813 Business Phone Number: (808) 521-0211
2.4 General Contractor	Name: none Business Address: Business Phone Number:
2.5 Condominium Managing Agent	Name: Self-managed by Association of Unit Owners Business Address: 3762 Keli Place Princeville, Hawaii 96722 Business Phone Number: (347) 804-8059
2.6 Attorney for Developer	Name: Galen Nakamura Business Address: 4357 Rice Street, #102 Lihue, Hawaii 96766 Business Phone Number: (808) 632-2267

3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

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

3.1 Declaration of Condominium Property Regime

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	March 31, 2017	A-63160587

Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	June 9, 2017	A-63730575

3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters that affect how the condominium project will be governed.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	March 31, 2017	A-63160588

Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number

3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

Land Court Map Number	
Bureau of Conveyances Map Number	5643
Dates of Recordation of Amendments to the Condominium Map:	

3.4 House Rules

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

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

3.5 Changes to the Condominium Documents

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

Document	Minimum Set by Law	This Condominium
Declaration	67%	100%
Bylaws	67%	100%

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

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	<p>Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House Rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows:</p> <ol style="list-style-type: none"> 1. Easements. The right to grant, realign, delete, etc. certain easements and rights of way over the Project's units, common elements and limited common elements as necessary, and amend the Declaration and Condominium Map in accordance therewith until 12/31/2027. Declaration (hereafter "Dec") §6.3 2. Project documents. The right to amend the Declaration, Bylaws, Condominium Map, and House Rules (if any) to comply with laws that apply to the Project until 12/31/2027. Dec § 27.0 3. Division of units. The right to divide existing units into two or more units to facilitate the transfer of a portion of a unit to the government. Dec §9.1 4. Developer's amendment of Project documents. Any time prior to the first conveyance of a unit to a party other than Developer, the right to amend the Declaration, Bylaws and/or Condominium Map. Dec §26.0 5. H.R.S. §514B-34 Certification. Upon satisfying certain conditions, the right to amend the Declaration and Condominium Map, without the consent or joinder of any unit owner, to record the certification required by H.R.S. §514B-34. Dec §26.0 6. Common elements. The right to act on any matter relating to development, construction or improvements in the common elements. The authority to implement the Driveway Plan. Dec §§19.0 and 4.1 7. Plants. Right to relocate, remove, & dispose of plants in the common element. Dec §28.0

4. CONDOMINIUM MANAGEMENT

4.1 Management of the Common Elements

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

4.2 Estimate of the Initial Maintenance Fees

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

4.3 Utility Charges to be Included in the Maintenance Fee

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

4.4 Utilities to be Separately Billed to Unit Owner

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

5. SALES DOCUMENTS

5.1 Sales Documents Filed with the Real Estate Commission

<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit " <u>E</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: <u>May 18, 2017</u> Name of Escrow Company: <u>Title Guaranty Escrow Services, Inc.</u> Exhibit " <u>F</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 ____.
<input type="checkbox"/>	Developer has or will designate the units for sale to Owner-Occupants by publication.

5.3 Blanket Liens

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

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

<u>Type of Lien</u>	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance

5.4 Construction Warranties

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

Building and Other Improvements:

None

Appliances:

None

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

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

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

<input checked="" type="checkbox"/>	<p>Spatial Units. The Developer hereby declares by checking the box to the left that it is offering spatial units for sale and will not be using purchasers' deposits to pay for any costs to pay for project construction or to complete the project.</p> <p>Should the developer be using purchasers' deposits to pay for any project construction costs or to complete the project including lease payments, real property taxes, architectural, engineering, legal fees, financing costs; or costs to cure violations of county zoning and building ordinances and codes or other incidental project expenses, the Developer has to met certain requirements, described below in 5.6.1 or 5.6.2..</p>
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The Developer is required to deposit all moneys paid by purchasers in trust under a written escrow agreement with a Hawaii licensed escrow depository. Escrow shall not disburse purchaser deposits to the Developer or on behalf of the Developer prior to closing, except if a sales contract is canceled or if Developer has met certain requirements, which are described below.

5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance

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

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

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

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

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

5.7 Rights Under the Sales Contract

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

1. **Developer's Public Report**
2. **Declaration of Condominium Property Regime (and any amendments)**
3. **Bylaws of the Association of Unit Owners (and any amendments)**
4. **Condominium Map (and any amendments)**
5. House Rules, if any
6. Escrow Agreement
7. Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8. Other:
Declaration of CCRs of the Seacliff Plantation and Kilauea Bay Community (8-31-1983) and all amendments relating thereto (See pg1a SPECIAL ATTENTION)
Declaration of CCRs- Seacliff Kilohana, Kilauea, Kauai, Hawaii (3-31-2017) (See pg1a SPECIAL ATTN)

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

Website to access official copy of laws: www.capitol.hawaii.gov

Website to access rules: www.hawaii.gov/dcca/har

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

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

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

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

- (1) The purchaser has signed the sales contract.
- (2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.
- (3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.
- (4) The purchaser does at least one of the following:
 - (a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

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

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

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

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

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

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

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

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

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

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

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

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

6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT

A. Water, sewer, and electric, and telecommunications service. Each unit shall have its own water meter and apply for and receive potable water service from the Kauai County Department of Water ("KDOW"), subject to KDOW's rules and requirements. (Declaration §7.7). Each unit shall be responsible for the construction, maintenance, operation, repair, and replacement of its own septic system within each unit's boundaries. The development and operation of such septic systems are subject to requirements of the County of Kauai and the State of Hawaii's Department of Health. Purchasers are directed to Declaration §7.7(b) regarding electrical service to each unit. Each unit shall be responsible for and bear the cost of all electric, CATV, and telecommunication improvements and services needed to serve that unit.

B. Insurance. In lieu of the Association of Unit Owners doing so, each unit owner may be required to obtain separate property insurance to cover fire and casualty loss as well as insurance to cover liability risks for the owner's unit and its appurtenant limited common element. (Declaration §14.0)

C. Governmental Approvals/Permits. Each owner is solely responsible for obtaining all required governmental approvals and permits prior to alteration/construction of improvements in the owner's unit or limited common elements appurtenant thereto. (Declaration §16.1) Purchasers are advised that the Planning Department of the County of Kauai may require authorization by 75% of the owners of a parcel of land to apply for land use permits. This means that owners of both units may have to sign applications for any zoning or other land use permits required for, among other things, the construction of improvements (including dwellings) within their units or appurtenant limited common elements. Owners shall assume the risk of changes in requirements of governmental approvals needed to alter dwellings and construct and/or alter improvements in the units or limited common elements appurtenant thereto.

D. Amendment to Declaration. The Declaration may be amended by vote or consent of 100% of the common interests in the Project; provided that any time prior to the first recording of a conveyance of a unit to a party other than Developer or an affiliate of the Developer, Developer may amend the Condominium Map and Seacliff Kilohana Governing Documents in any manner, without the consent or joinder of any unit or other party.

E. Binding Arbitration. The attention of purchasers is directed to the binding arbitration provisions of Declaration §34.0, concerning disputes between the Developer, the Project's Association, and the Project's unit owners concerning the Project.

F. Maintenance Fees. Due to the character of the Project, no initial maintenance fees are anticipated; however, each unit owner is required to maintain, at the unit owner's expense, the limited common elements appurtenant to each unit owner's unit. (See Exhibit "D" to Public Report)

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

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

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

SEACLIFF KILOHANA, LLC

Printed Name of Developer

By: 
Duly Authorized Signatory*

1-09-2018
Date

James Fields Its: Member/Manager

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, _____

Planning Department, _____

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

EXHIBIT "A"

DESCRIPTION OF UNITS

Units 1 and 2 are three-dimensional spatial areas which have the following spatial coordinates:

(1) Unit 1

- (a) The ground level shape and location of Unit 1 is shown on the Condominium Map and described in Exhibit "C" to the Declaration (herein "Ground Level");
- (b) The base of Unit 1 (herein "Base") is located thirty (30) feet directly below Ground Level parallel to Ground Level;
- (c) The top of Unit 1 (herein "Top") is located sixty (60) feet directly above Ground Level parallel to Ground Level;
- (d) The Base and Top both have the same shape (in horizontal plane) as the Ground Level shape as shown on the Condominium Map.
- (e) The sides of Unit N-1 (herein "Sides") connect the perimeters of the Base and the Top and are all ninety (90) feet in height.
- (f) Unit 1 is all of the spatial area inside the Base, Top and Sides and has a ground area of 7.934 acres.

(2) Unit 2

- (a) The ground level shape and location of Unit 2 is shown on the Condominium Map and described in Exhibit "C" to the Declaration (herein "Ground Level");
- (b) The base of Unit 2 (herein "Base") is located thirty (30) feet directly below Ground Level parallel to Ground Level;
- (c) The top of Unit 2 (herein "Top") is located sixty (60) feet directly above Ground Level parallel to Ground Level;
- (d) The Base and Top both have the same shape (in horizontal plane) as the Ground Level shape as shown on the Condominium Map.
- (e) The sides of 2 (herein "Sides") connect the perimeters of the Base and the Top and are all ninety (90) feet in height.
- (f) Unit 2 is all of the spatial area inside the Base, Top and Sides and has a ground area of 4.304 acres.



DATE THIS MAP PREPARED BY AS ORDER OF SUBMITTER

Signature of Professional Engineer

Condominium Map Showing "SEACLIFF KILORANA" UNIT 1, UNIT 2 AND COMMON ELEMENT Being Lot 11-A Seaclyff Plantation At Kilouea Bay Being portion of Great 2896 to Charles Thcomb AND DESIGNATION OF EASEMENTS 11-2 & 11-2' & GUEST HOUSE BUILDING AREA At Kilouea, Hanalei, Kauai, Hawaii Current Owner: Seaclyff Kilouea, LLC

Current Owner: Seaclyff Kilouea, LLC

Lot 12 David C. Wilson Trust

Department of Land & Natural Resources State of Hawaii

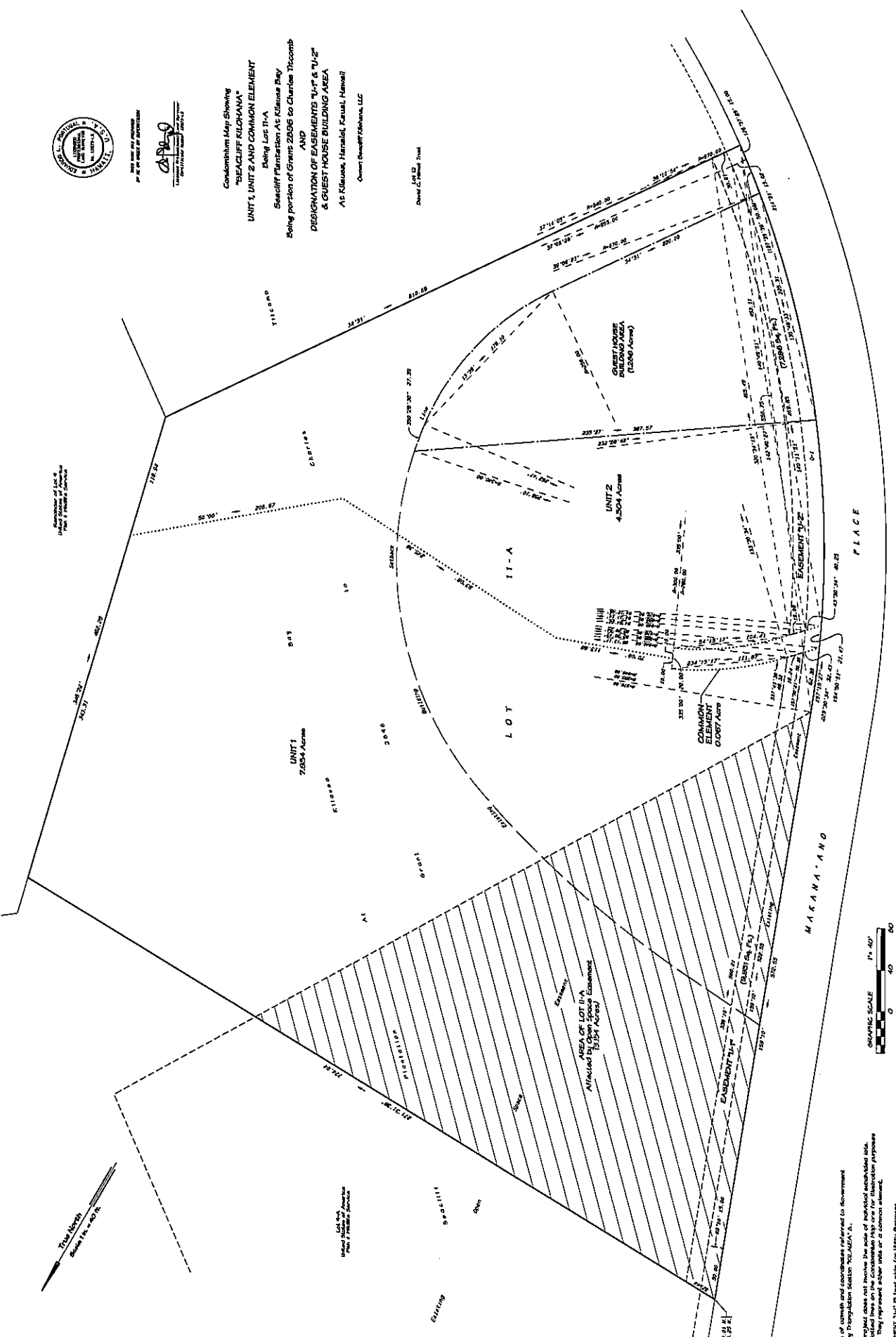


EXHIBIT "A-1"

- NOTES:
1. Copy of maps and calculations referred to in document Survey Registration Station "KILANEA" A.
 2. The 11-2' and 11-2' lines are not included in this plan. The 11-2' lines on the Condominium Map are for illustration purposes only. They represent either utility or a common element.
 3. EASEMENT 11-2' IS 15 feet wide for Utility Purposes.
 4. EASEMENT 11-2' IS 15 feet wide for Utility Purposes.



EXHIBIT "B"
ENCUMBRANCES AGAINST TITLE

1. Real Property Taxes, if any, that may be due and owing.

Tax Key: (4) 5-2-004-084 Area Assessed: 12.305
acres

-Note:- Attention is invited to the fact that the premises covered herein may be subject to possible rollback or retroactive property taxes.

2. Mineral and water rights of any nature.
3. Building setback line as shown on map prepared by Cesar C. Portugal, Land Surveyor, dated revised July 1983.
4. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF THE SEACLIFF
PLANTATION AT KILAUEA BAY COMMUNITY

DATED : August 31, 1983
RECORDED : Liber 17405 Page 411

Said Declaration was amended by instruments dated --
- (acknowledged March 1, 1988, March 2, 1988, March
3, 1988 and March 7, 1988), recorded in Liber 21704
at Page 1, dated September 9, 1988, recorded in
Liber 22367 at Page 21, dated December 28, 1988,
recorded in Liber 22766 at Page 559, and dated ---
(acknowledged February 11, 2000 through May 8,
2002), recorded as Document No. 2002-105319.

5. Requirement of signing an elevation agreement with the Department of Water for water service, as set forth in Section 3.01(bb) of Declaration of Covenants, Conditions and Restrictions dated August 31, 1983, recorded in Liber 17405 at Page 411.

6. Requirements for driveways bridging drainage culverts, as set forth in Section 3.03(c) of Declaration of Covenants, Conditions and Restrictions dated August 31, 1983, recorded in Liber 17405 at Page 411.

7. Easement "D-1" (15' wide) for drainage purposes, being more particularly described in instrument dated June 2, 1994, recorded as Document No. 94-108675.

8. The terms and provisions contained in the following:

INSTRUMENT : DEED OF OPEN SPACE EASEMENT

DATED : February 29, 1988
RECORDED : Liber 21704 Page 43

9. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION RE ELECTRICAL USE

DATED : July 25, 1988
RECORDED : Liber 22226 Page 340

10. RIGHT-OF-ENTRY

TO : CITIZENS UTILITIES COMPANY, now known
as CITIZENS COMMUNICATIONS COMPANY,
whose interest is now held by KAUAI
ISLAND UTILITY COOPERATIVE, and GTE
HAWAIIAN TELEPHONE COMPANY
INCORPORATED, now known as HAWAIIAN
TELCOM, INC.

DATED : October 12, 1988
RECORDED : Liber 22768 Page 454
GRANTING : a right-of-entry for utility purposes

11. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT FOR NON-GRANT OF UTILITY
EASEMENTS

DATED : April 29, 1993
RECORDED : Document No. 93-073992
PARTIES : PALI MOANA COMPANY, formerly known as
ROBERSON/LARSON PARTNERS, a New Mexico
partnership, "Declarant", and UNITED
STATES OF AMERICA, acting by and
through the Fish and Wildlife Service,
"USA"

12. Any unrecorded leases and matters arising from or
affecting the same.

13. Discrepancies, conflicts in boundary lines, shortage
in area, encroachments or any other matters which a
correct survey or archaeological study would
disclose.

14. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF RESTRICTIVE COVENANTS
AND CONDITIONS - SEACLIFF KILOHANA,
KILAUEA, KAUAI, HAWAII

DATED : March 31, 2017
RECORDED : Document No. A-63160586

15. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY
REGIME FOR
"SEACLIFF KILOHANA" CONDOMINIUM
PROJECT

DATED : March 31, 2017
RECORDED : Document No. A-63160587
MAP : 5643 and any amendments thereto

Said Declaration was amended by instrument dated
June 9, 2017, recorded as Document No. A-63730575.

16. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF UNIT
OWNERS

DATED : March 31, 2017
RECORDED : Document No. A-63160588

17. The Developer's Public Report for the SEACLIFF
KILOHANA condominium project is not filed in the
Real Estate Commission of the Department of Commerce
and Consumer Affairs.

END OF EXHIBIT B

EXHIBIT "C"

(Verified statement from County official)

Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning



Wallace G. Rezentes, Jr.
Managing Director

Ka'aina S. Hull
Deputy Director of Planning

PLANNING DEPARTMENT

County of Kaua'i, State of Hawai'i

4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

DATE: **SEP 11 2017**

TO: Condominium Specialist
Real Estate Commission – P & VLD/DCCA
335 Merchant Street, Suite 333
Honolulu, Hawaii 96813

FROM: Michael A. Dahilig, Director of Planning

SUBJECT: **Certification of Inspection – CPR-2018-2**

Project Name: **Seacliff Kilohana Condominium**

Tax Map Key: 52004084

The attorney for the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai, Section 514 B-5 & B-6, Hawaii Revised Statutes, subject to the disclosures and waivers (item "5" below) specified herein, we certify the following:

The developer has contracted Surveyor Eduardo Portugal to certify that the buildings on the proposed project referred to as **Seacliff Kilohana Condominium** Units 1 and 2 are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the Department.

1. There are no variances approved for the subject property.
2. The parcel does not contain any outstanding nonconforming uses or structures as a result of the adoption or amendments of any ordinances or codes and regulations.
3. There are no notices of violations of County building or zoning codes outstanding according to our records.

TMK: 52004084

Page 2 of 2

4. **WAIVER**

The foregoing certification is not a warranty to any compliance with applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under subsection 514 B-84, (a), and (2), Hawaii Revised Statutes.

If you have any questions, please contact me at (808) 241-4050.

cc: Galen Nakamura, Esq. ✓

EXHIBIT "D"

ESTIMATE OF INITIAL MAINTENANCE FEES

Due to the character of the Project, where there are no common elements requiring monthly or annual maintenance and only limited common elements appurtenant to a particular unit or units, and due to the requirement that each unit owner maintain, at the unit owner's expense, the limited common elements appurtenant to the unit owner's unit, it is anticipated that funds for the operation, maintenance, and repair of any common areas or facilities (such as the Project's Driveway Common Element) will be collected by special assessments rather than regular monthly assessments. Also, the Association may require each unit owner to obtain separate property and liability insurance covering the owner's unit and appurtenant limited common element, in lieu of the Association doing so. Accordingly, no initial maintenance fees are anticipated. I certify that this estimate of initial maintenance fees was based on generally accepted accounting principles.

Dated: 1-09-2018, ~~2017~~ ¹⁴

Seacliff Kilohana, LLC

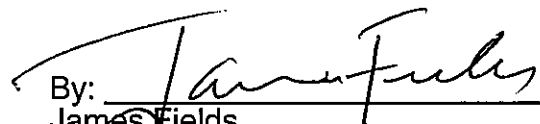
By: 
James Fields
Its: Member/Manager

EXHIBIT "E"

Summary of Sales Contract

The sales contract for the Project contains the price and other terms and conditions under which a buyer will agree to buy a unit in the Project. The sales contract contains many important provisions which are not set out here and should be carefully reviewed by every prospective purchaser. This summary is not intended to be complete and will not be controlling if there are any conflicts with any provision in the sales contract. Among other things, this contract says:

(a) A buyer must obtain his own financing and deadlines apply for submitting the application and obtaining the final approval for the financing. If these deadlines are not met, then the Seller may terminate the contract.

(b) That the buyer's money will be held in escrow, under the terms of the Escrow Agreement.

(c) That the unit will be subject to various legal documents, including the *Declaration of Covenants, Conditions and Restrictions of the Seacliff Plantation and Kilauea Bay Community* dated August 31, 1983 recorded with the Hawaii Bureau of Conveyances ("Bureau") in Liber 17405 at page 411, as amended, the *Declaration of Restrictive Covenants and Conditions- Seacliff Kilohana, Kilauea, Kauai, Hawaii* dated March 31, 2017 recorded in the Bureau as Document No. A-63160586, Declaration, By Laws, and any other documents which the buyer is given a copy of and for which the buyer has received.

(d) That the buyer must close the purchase on a date certain and pay closing costs, in addition to the purchase price.

(e) If the buyer defaults, and the seller is not in default, seller may terminate the sales contract and retain the buyer's deposits (including Earnest Money deposit) as liquidated damages. Seller may in addition pursue any other remedy, and all costs by reason of such default shall be borne by the buyer in accordance with the contract.

(f) If the buyer has made all payments required under the contract, the buyer shall be entitled to seek specific performance.

The sales contract also contains various other provisions with which the buyer should become acquainted.

Exhibit "F"

Summary of Escrow Agreement

The Escrow Agreement establishes an arrangement through which the deposits a purchaser makes under a Sales Contract will be held by a neutral third party ("Escrow"). The Escrow Agreement contains many important provisions which are not set out here and should be carefully reviewed by every prospective purchaser. This summary is not intended to be complete and will not be controlling if there are any conflicts with any provision in the Escrow Agreement. Prospective purchasers are cautioned and encouraged to read the Escrow Agreement carefully and entirely.

The Escrow Agreement provides that Escrow is to collect Buyer's payments and hold them in accounts with banks or savings institutions that are federally insured.

The Escrow Agreement provides for the closing or settlement of the sale. Escrow collects all payments and other amounts owed under the Sales Contract, including closing costs which are shared between the Developer and Buyer as set forth in the Sales Contract.

Escrow handles the closing and the transfer of title according to the Escrow Agreement. The unit being purchased must be conveyed to Buyer free and clear of any blanket liens (if any) covering more than one unit.

The Escrow Agreement provides certain protections to Escrow should a dispute between the Developer and Buyer occur. These rights include filing an "interpleader" and the right to recover certain fees and costs. In an interpleader action the escrow deposit is given to the court to decide what action to take.

The Escrow Agreement sets out the escrow fees, escrow cancellation fees, and the fees for certain policies of title insurance.

Further, under the Escrow Agreement, the following things will or may happen:

- (a) Escrow will let purchasers know when payments are due.
- (b) Escrow will arrange for purchasers to sign all necessary documents.
- (c) No disbursements of funds held in escrow will be made unless, among other requirements, the following has occurred:
 - 1. Seller shall have delivered to the purchaser a true copy of the Public Report including all amendments, with effective date(s) issued by the Real Estate Commission and Seller's attorney delivers a written opinion to Escrow that the Sales Contract has become effective;
 - 2. Seller delivers a written opinion to Escrow that the requirements of Haw. Rev. Stat. §§514B-82 to 514B-93 have been satisfied
 - 3. Seller shall have delivered the notice of purchaser's 30-day right of

cancellation to the purchaser which purchaser has waived or is deemed to have waived; and

4. If applicable, Escrow shall have received owner-occupant affidavits affirmed by the owner-occupant(s), along with proof of the date of receipt of the public report.
5. The sale has "closed" according to the terms and conditions of the Escrow Agreement.

(d) A refund of purchaser's funds will be made upon request by purchaser under the following conditions:

1. Escrow receives a written request from seller and purchaser to return purchaser's funds held by Escrow; or
2. Escrow receives written notification of seller's exercise of any option to cancel or rescind the Sales Contract pursuant to any right under the Sales Contract or otherwise available to seller; or
3. The conditions providing for a refund under Haw. Rev. Stat. §§514B-86, 87 or 89 have been satisfied.

(e) Upon a purchaser's default under the sales contract, the purchaser's funds will be retained by the Seller as liquidated damages.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.

Note: Haw. Rev. Stat. §514B-87 provides for rescission rights to a purchaser under a binding contract if there is a material change in the Project.