



REAL ESTATE COMMISSION
STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
1010 Richards Street - P. O. Box 3469
Honolulu, Hawaii 96801

CONDOMINIUM PUBLIC REPORT

on

HAENA LAND COMPANY CONDOMINIUM

Hanalei, Kauai, Hawaii

Registration No. 2515 (Partial Conversion)

Issued: October 31, 1991
Expires: December 1, 1992

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of October 2, 1991, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully. This report also includes information submitted by the Kauai County Planning Department
Type of Report: dated March 8, 1991.

- ☐ **PRELIMINARY:**
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.
- ☒ **FINAL:**
(white) The developer has legally created a condominium and has filed complete information with the Commission.
☒ No prior reports have been issued
☐ Supersedes all prior public reports
☐ Must be read together with _____
- ☐ **SUPPLEMENTARY:**
(pink) Updates information contained in the
☐ Prelim. Public Report dated _____
☐ Final Public Report dated _____
☐ Supp. Public Report dated _____
- And ☐ Supersedes all prior public reports
☐ Must be read together with _____
☐ This report reactivates the _____
public report(s) which expired on _____

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

☐ Required ☒ Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

☒ No prior reports have been issued by the Commission.

☐ Changes made are as follows:

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*****
*   SPECIAL NOTICE:                                     *
*   UNIT 4 IS NOT A RESIDENTIAL UNIT.  CURRENT COUNTY RESTRICTIONS *
*   ON THE NUMBER OF RESIDENTIAL DWELLING UNITS WHICH MAY BE BUILT *
*   UPON THE PROPERTY LIMIT THE PROPERTY TO THREE (3) DWELLINGS, *
*   THOSE ON UNITS 1, 2, AND 3.  UNIT 4 MAY NOT CONSTRUCT A *
*   DWELLING.  THERE IS NO ASSURANCE THAT THE PURCHASER OF UNIT 4 *
*   WILL EVER BE ABLE TO CONVERT THE EXISTING NON-RESIDENTIAL *
*   STRUCTURE TO RESIDENTIAL USE.                             *
*   1.  This Public Report does not constitute an approval of the *
*   Project nor does it warranty that all County Codes, *
*   Ordinances and subdivision requirements have necessarily *
*   been complied with.                                       *
*   2.  This Project does not involve the sale of individual *
*   subdivided lots.  The dotted lines on the Condominium Map *
*   are for illustrative purposes only.                       *
*   3.  Facilities and improvements normally associated with County- *
*   approved subdivisions may not necessarily be provided for, *
*   and services such as County street maintenance, enhanced *
*   water facilities, fire service, related services and trash *
*   collection will not be available for interior roads.      *
*   4.  Read Exhibit I (Letter from County of Kauai) with care. *
*   5.  This project is in a flood/tsunami zone.  By a Waiver and *
*   Indemnity Agreement dated October 31, 1981, the County of *
*   Kauai shall be released from all claims and causes of *
*   action which may accrue by reason of tsunami, storm wave, *
*   or surface water flooding upon the land which the Project *
*   is situate (See Exhibit F).                               *
*   THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE *
*   DOCUMENTS FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING. *
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TABLE OF CONTENTS

	page
Report Purpose	1
Type of Report	1
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Summary of the Condominium Project	5
 I. PEOPLE CONNECTED WITH THE PROJECT	 6
Developer	
Real Estate Sales Agent	
Escrow Company	
Managing Agent	
Attorney for Developer	
 II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	 7
A. Declaration	7
B. Condominium Map (File Plan)	7
C. Bylaws	7
D. House Rules	8
E. Changes to Condominium Documents	8
 III. THE CONDOMINIUM PROJECT	 9
A. Interest to be Conveyed to Buyer	9
B. Underlying Land	10
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	14
E. Encumbrances Against Title	15
F. Management of the Common Elements	15
G. Maintenance Fees	16
H. Utility Charges	16
I. Construction Warranties	16
J. Status of Construction	17
K. Project Phases	17
L. Sales Documents Filed with the Real Estate Commission	17
 IV. ADDITIONAL INFORMATION NOT COVERED ABOVE	 18
Buyer's Right to Cancel Sales Contract	19
Signature of Real Estate Commission Chairman	20
 EXHIBIT A: Condominium Map and Limited Common Element Locations	
EXHIBIT B: Summary of Sales Contract	
EXHIBIT C: Schedule of Apartments and Common Interests	
EXHIBIT D: Summary of Portions of Escrow Agreement	
EXHIBIT E: Common Elements and Limited Common Elements of Project	
EXHIBIT F: Encumbrances Against Title	
EXHIBIT G: Disclosure Abstract	
EXHIBIT H: Estimate of Initial Maintenance Fees and Disbursements	
EXHIBIT I: Letter from County of Kauai Planning Department to the Hawaii Real Estate Commission	
EXHIBIT J: Declaration of Protective Covenants and Building Rules	

GENERAL INFORMATION ON CONDOMINIUMS

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

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

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

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

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

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

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

Operation of the Condominium Project

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

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

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

SUMMARY OF THE CONDOMINIUM PROJECT

Interest to be Conveyed to Buyer:

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

Types of Project:

1. ☐ New Building(s) ☒ Conversion
☐ Both New Building(s) and Conversion
 2. ☒ Residential ☐ Commercial
☐ Mixed Residential and Commercial
☒ Other Unit 4 is not a residential unit. County restrictions limit the number of residential dwelling units to three dwellings, those on unit
 3. ☐ High Rise (5 stories or more) ☒ Low Rise 1, 2, and 3.
 4. ☐ Single or ☒ Multiple Buildings
 5. Apartment Description

Apt. No.	Quantity	BR/Bath	Net Living Area (sf)*	Carport, Storage Shed(s), Lanai/Patio (sf)
<u>1</u>	<u>1</u>	<u>4/2</u>	<u>2,417.5</u>	<u>981.48</u>
<u>2</u>	<u>1</u>	<u>3/2</u>	<u>1,915</u>	<u>1,305</u>
<u>3</u>	<u>1</u>	<u>3/2</u>	<u>1,502</u>	<u>1,865</u>
<u>4</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>26</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 4

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

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

6. Parking:

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

7. Recreational amenities: Each unit has ample parking area within its limited common element, but shall have at least two (2) stall areas at all times.

NONE

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: ROGER L. BATTY
Name
120 Corte Ramon
Business Address
Greenbrae, CA 94904

Phone: (415) 461-5287
(Business)

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

N/A

Real Estate Sales Agent: James F. Davis dba 1ST CHOICE REALTY
Name
4-356 Kuhio Highway
Business Address
Kapaa, HI 97646

Phone: (808) 822-5850
(Business)

Escrow: TITLE GUARANTY ESCROW SERVICES, INC.
Name
235 Queen Street, Condo Section
Business Address
Honolulu, HI 96813

Phone: (808) 521-0211
(Business)

Managing Agent: Self-Managed **
Name

Business Address

Phone: _____
(Business)

**Upon compliance with all
applicable condominium
management laws.

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

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

☐ Proposed
☒ Recorded - Bureau of Conveyances - Document No. 91-023508
☐ Filed - Land Court - Document Number

Amendment date(s) and recording/filing information:

First Amendment to the Declaration recorded July 24, 1991, as
Document No. 91-099104.

Second Amendment to Declaration dated October 12, 1991, recorded
as Document No. 91-145811.

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

The Condominium Map for this condominium project is:

☐ Proposed
☒ Recorded - Bureau of Conveyance Condo Map No. 1449
☐ Filed - Land Court Condo Map No.

Amendment date(s) and recording/filing information:

Amended October 12, 1991, recorded as Document No. 91-145811.

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

The Bylaws for this condominium are:

☐ Proposed
☒ Recorded - Bureau of Conveyances - Document No. 91-023509
☐ Filed - Land Court - Document Number

Amendment date(s) and recording/filing information:

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

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

The House Rules for this condominium are:

☐ Proposed ☐ Adopted

☒ Developer does not plan to adopt house rules. However, please see the Declaration of Protective Covenants and Building Rules.

E. **Changes to Condominium Documents**

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

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

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

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

2. **Developer:** The developer has reserved the following rights to change the Declaration, Condominium Map Bylaws, or House Rules:

None.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- [X] Fee Simple: Individual apartments and the common elements which includes the underlying land will be in fee simple.
- [] Leasehold or Subleasehold: Individual apartments and the common elements which includes the underlying land will be leasehold.

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

Exhibit contains further explanations.

Lease Term Expires: _____

Rent Renegotiation Date(s): _____

Lease Rent Payable: ☐ Monthly ☐ Quarterly
 ☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per
☐ Month ☐ Year.

- [] Individual Apartments in Fee Simple Common Interest in the Underlying Land in Leasehold or Subleasehold:**

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

Exhibit contains further explanations.

Lease Term Expires: _____

Rent Renegotiation Date(s):

Lease Rent Payable: ☐ Monthly ☐ Quarterly
 ☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per
☐ Month ☐ Year.

- [] Other:

For Subleaseholds:

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

B. Underlying Land:

Address: Hanalei, Kauai, Hawaii Tax Map Key: (4) 5-8-010-015
(TMK)

[X] Address [] TMK is expected to change because each unit has not yet been
assigned an address.

Land Area: 76,645 [X] square feet [] acre(s) Zoning: Residential

Fee Owner: ROGER L. BATTY, BARBARA ANN BATTY, JOSEPH E. SCALLON,
- Name JUDY C. SCALLON, JACK A. FISHER, and MARY M. FISHER

120 Corte Ramon
Address
Greenbrae, CA 94904

Sublessor: _____
Name

Address

C Buildings and Other Improvements:

1. [] New Building(s) [] Conversion of Existing Building(s)
[X] Both New Building(s) and Conversion Units 1,2,3 - 2 stories
2. Buildings: 4 Floors Per Building Unit 4 - 1 story
[] Exhibit _____ contains further explanations.

3. Principal Construction Material:

[] Concrete [] Hollow Tile [X] Wood
[X] Other Unit 4 is a metal storage shed

4. Permitted Uses:

	<u>No. of Apts.</u>		<u>No. of Apts.</u>
[] Commercial	_____	[] Industrial	_____
[X] Residential	<u>4</u>	[] Agricultural	_____
[] Timeshare/Hotel	_____	[] Recreational	_____
[X] Other:	<u>Please see Page 18 for further explanation.</u>		_____

5. Special Use Restrictions:

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

☒ Pets Pigs, roosters and peafowl are prohibited.

☐ Number of Occupants: _____

☒ Other: Please see Declaration of Protective Covenants and Building Rules, Exhibit J of this Public Report.

☐ There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 4

Elevators 0

Stairways 0

Trash Chutes 0

<u>Apt. NO.</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)</u>	<u>Carport, Storage Shed(s), Lanai/Patio (sf)</u>
<u>1</u>	<u>1</u>	<u>4/2</u>	<u>2,417.5</u>	<u>981.48</u>
<u>2</u>	<u>1</u>	<u>3/2</u>	<u>1,915</u>	<u>1,305</u>
<u>3</u>	<u>1</u>	<u>3/2</u>	<u>1,502</u>	<u>1,865</u>
<u>4</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>26</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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

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

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

The area of land (limited common element) set aside for each unit and the location of each apartment in the project are illustrated on the condominium plot plan attached as Exhibit A.

Permitted Alterations to Apartments:

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

7. Parking Stalls:

Total Parking Stalls: 6 *

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

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

- ☐ Commercial parking garage permitted in condominium project.

- ☐ Exhibit _____ contains additional information on parking stalls for this condominium project.

* There are three dwellings, each with two parking spaces for a total of six spaces. Unit 4 cannot construct a dwelling, and has no parking space.

8. Recreational and Other Common Facilities.

- [X] There are no recreational or common facilities.

- ☐ Swimming pool

- ☐ Recreation Area

- ☐ Tennis Court

- [] Other: _____

.....

9. Present Condition of Improvements

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

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

All structures are in good condition and all systems within operate properly. Estimated life for Unit 1 is 40 years; Unit 2 is 30 years; and Unit 3 is 40 years. A Notice of Completion for Unit 4 was published on March 6 and 13, 1991.

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

Based on an inspection by an independent professional engineer, there are no apparent violations of the building code or municipal regulations. However, as no County of Kauai Planning Department records are available to confirm compliance, no warranty is made to the accuracy of the foregoing.

10. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

☒ Exhibit E describes the common elements.

☐ As follows:

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

☐ There are no limited common elements in this project.

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

☒ described in Exhibit E

☒ as follows:

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

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

☒ Exhibit C describes the common interests for each apartment.

☐ As follows:

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

Exhibit F describes the encumbrances against the title contained in the title report dated August 23, 1991 and issued by Title Guaranty of Hawaii, Inc. Developer represents that since that date there have been no further encumbrances. Except for the Second Amendment to the Declaration noted on Blanket Liens: Page 7 of this report.

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

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

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

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

Type of Lien

Effect on Buyer's Interest
If Developer Defaults

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

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

The initial managing agent for this condominium is:

☐ not affiliated with the Developer.

☐ the Developer or the Developer's affiliate.

☒ self-managed by the Association of Apartment Owners.

☐ other _____

G. Estimate of Initial Maintenance Fees:

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

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

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

H. Utility Charges for Apartments:

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

☐ Electricity

☐ Television Cable

☐ Gas

☒ Water & Sewer

☒ Other Grounds maintenance, management, insurance, taxes

☐ Not applicable

I. Construction Warranties:

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

1. Building and Other Improvements:

NONE

2. Appliances:

NONE

J. Status of Construction and Estimated Completion Date:

Units 1, 2, and 3 were completed in approximately 1983, 1968, and 1982, respectively, and Unit 4's shed was completed on March 1, 1991.

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

L. Sales Documents Filed With the Real Estate Commission:

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

☐ Notice to Owner Occupants

☒ Specimen Sales Contract

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

☒ Escrow Agreement dated February 1, 1991

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

☒ Other Registration Forms

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

This is a condominium project, not a subdivision. Units purchased are not subdivided lots. If a residence is not already constructed, you will be required to comply with zoning codes to be allowed to construct a residence on your limited common element. To determine whether your expectations can be realized, you should carefully review this Report.

You should also conduct your own investigations and ascertain the validity of information provided. Please remember that issuance of this Report does not mean the Real Estate Commission has approved the Project.

The County of Kauai Planning Department has advised that, in order to process the necessary permits for the construction on a Unit, authorization from at least 75% of the legal and equitable ownership of the entire property shall be required, consistent with the Declaration of Condominium Property Regime and the Bylaws. Except as limited specifically by the Project Documents all uses permitted in the Residential Zone are permitted. See Kauai County Comprehensive Zoning Ordinance for further specifications.

A buyer should understand that all development and use of the properties shall comply with all County Codes and Ordinances, that owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots, and that owners who develop their properties later than others may find that insufficient utility capacities or changes in the law or zoning codes may thwart their expectations.

Please also see the advisory letter from the Kauai County Planning Department attached as Exhibit I to this report.

Buyer's Right to Cancel Sales Contract:

A. Rights Under the Condominium Statute:

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

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

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

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

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

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

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

B. Rights Under the Sales Contract:

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

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

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

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

This Public Report is a part of Registration No. 2515 filed with the Real Estate Commission on September 11, 1991.

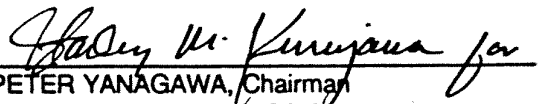
Reproduction of Report. When reproduced, this report must be on:

☐ yellow paper stock

☒ white paper stock

☐ pink paper stock

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



PETER YANAGAWA, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

Bureau of Conveyances

Department of Finance, County of Kauai

Planning Department, County of Kauai

Federal Housing Administration

068-AN EXHIBIT A

Condominium Map and Limited Common Element Locations

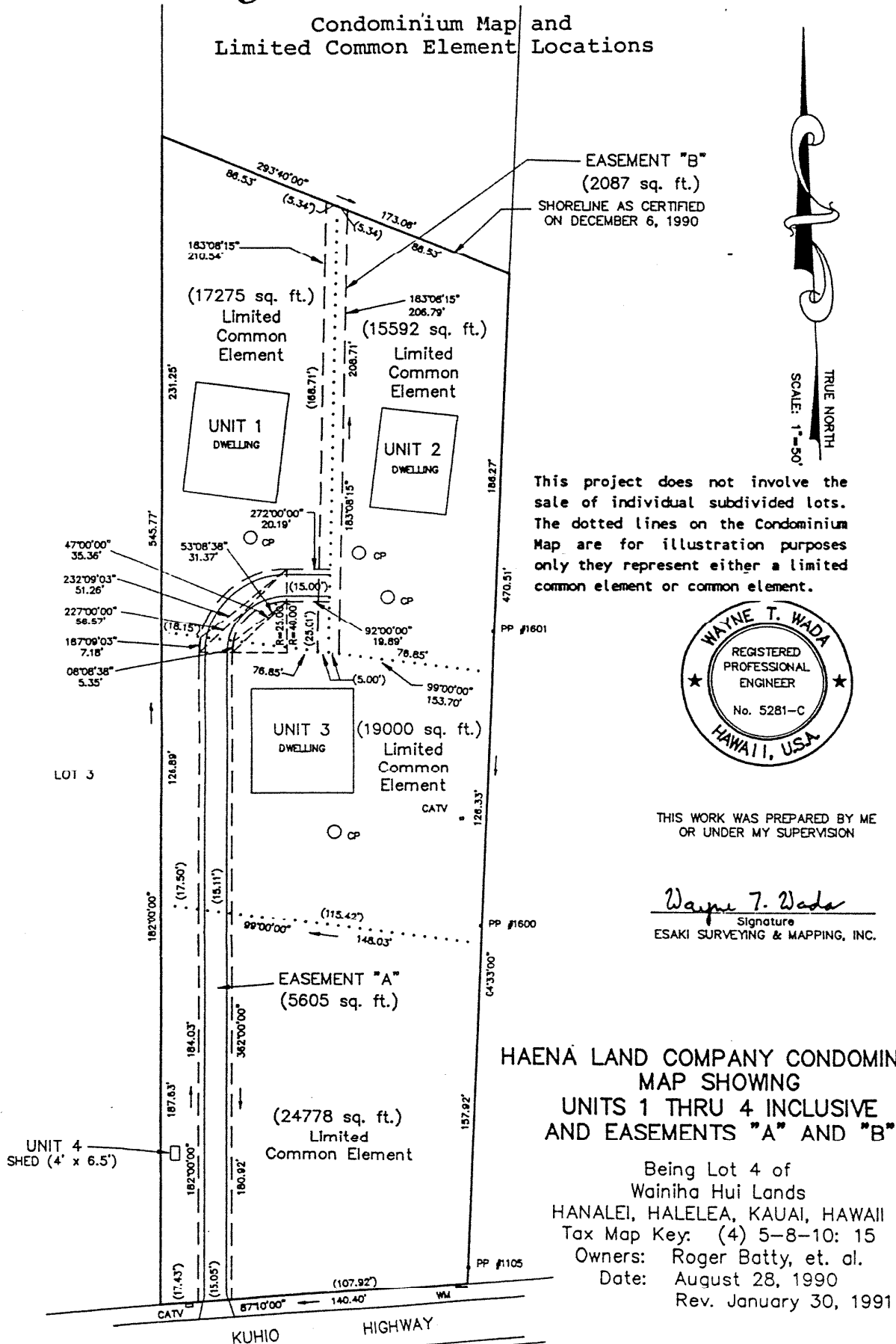


EXHIBIT B

SUMMARY OF SALES CONTRACT

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

1. The method of payment of the purchase price to the escrow agent, subject to other terms.

2. The closing date for the purchase.

3. Whether at the time of execution of the contract, a final public report has been issued.

4. The terms and conditions of the sale which include, among other provisions, the following:

(a) That Buyer will receive a copy of the final public report for the project.

(b) Buyer agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.

(c) After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Buyer shall not have the right to rescind the contract.

(d) Buyer has received a copy of the Escrow Agreement for the Project.

(e) The unit the buyer is purchasing will be shown on a file plan map prior to closing, and will have the right to cancel if it is different from that shown on the Exhibit A.

(f) That a deed conveying clear title will be given at closing, subject to certain obligations.

(g) The Purchaser agrees to give future easements if reasonably required for the project.

(h) The purchaser will accept the Unit "AS-IS".

(i) The payment of commissions, if any, is set out in the contract.

(j) Time is of the essence of the obligations of Buyer under the contract.

SPECIAL NOTICE

* * * * *

THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE BUYER'S RIGHTS AND OBLIGATIONS, THE BUYER MUST REFER TO THE BUYER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS.

END OF EXHIBIT B

EXHIBIT C

SCHEDULE OF APARTMENTS AND COMMON INTERESTS FOR HAENA LAND COMPANY CONDOMINIUM

Qty.	Apt. No.	Area of Limited Common Element (Sq. Ft.)	No. of BR/BATH	Appx Net Living Area (Sq. Ft.)	Appx Carport, Storage, Deck Area (Sq. Ft.)	% of Common Int.
1	1	17,275	4/2	2,417.5	981.48	25
1	2	15,592	3/2	1,915	1,305	25
1	3	19,000	3/2	1,502	1,865	25
1	4	24,778	0	0	26	25

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

END OF EXHIBIT C

EXHIBIT D
SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between Title Guaranty Escrow Services, Inc. (the "Escrow") and ROGER L. BATTY and BARBARA ANN BATTY, Trustees of the unrecorded Batty Family Trust dated January 31, 1990; JOSEPH E. SCALLON and JUDY C. SCALLON, Trustees of the unrecorded 1989 Scallon Family Trust dated October 4, 1989; and JACK A. FISHER and MARY M. FISHER, Trustees of the Jack A. Fisher Family Trust, under an unrecorded trust instrument dated September 22, 1987, are the fee simple owners of certain real property described in Exhibit "A" attached hereto and incorporated herein by reference; and (the "Seller") contains, among other provisions the following (which may be modified or otherwise limited by provisions not summarized):

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

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

3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing. No disbursements will be made from Buyer's fund until: (a) the Real Estate Commission has issued a Final Public Report on the project and forty-eight (48) hours have elapsed since Buyer's receipt of a copy of the Final Public Report; (b) Buyer has waived its right to cancel the sales contract; and (c) Seller has notified Escrow that all other requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Where sales contracts are entered into Escrow will disburse funds upon presentation by Seller of Buyer's signed receipt for the Final Public Report and with notification by Seller that all of the requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Escrow will call for payments by the Buyer upon receipt of notice from Seller that any payments are due under any sales contract.

4. Escrow will return deposited sums to the Buyer without interest if Seller gives Escrow written notice to return the funds to Buyer, or with respect to a Buyer whose funds were obtained before the issuance of a Final Public Report, Escrow receives from the Buyer a written request to cancel the sales contract or after issuance of the Final Public Report and Buyer's waiver of his right to cancel the sales contract in accordance with Section 514A-62, Hawaii Revised Statutes, there shall be any material change in the project which directly, substantially and

* * * * *

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

END OF EXHIBIT D

EXHIBIT E

Common Elements of the Project

The common elements of the project are:

- (a) Land in fee simple;
- (b) Beach access easement, five (5) feet on each side of boundary between Units 1 and 2;
- (c) All driveways, walkways, ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, and telephone;
- (d) Any and all other elements and facilities in common use or necessary to the existence, upkeep and safety of the Project.

Limited Common Elements of Project

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

- (a) That certain land area upon and around which Units 1, 2, 3, and 4 are located, shown and designated on the Condominium Map and the table below, are deemed a limited common element appurtenant to and for the exclusive use of each respective unit.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
1	17,275 sq. ft.
2	15,592 sq. ft.
3	19,000 sq. ft.
4	24,778 sq. ft.

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

END OF EXHIBIT E

EXHIBIT F

ENCUMBRANCES AGAINST TITLE

1. Real property taxes. Check with the Kauai County Tax Assessor for further information.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. 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 and the effect, if any, upon the area of the land described herein.
4. WAIVER AND INDEMNITY AGREEMENT dated December 18, 1980, recorded in Liber 15279 at Page 377, made by JACK A. and MARY MARGERY FISHER, husband and wife, TOM G. and MARGARET B. HALASEY, husband and wife, JOSEPH E. and JUDY C. SCALLON, husband and wife, BARARA B. WEAVER, a married woman - separated, and WILLIAM C. WEAVER, a married man - separated, "Applicants"; re: Applicants hereby waive and release the COUNTY OF KAUAI, a political subdivision of the State of Hawaii, from all claims and causes of action, either legal or equitable, which may hereafter accrue by reason of any tsunami, stormwave or surface water flooding upon said land.
5. WAIVER AND INDEMNITY AGREEMENT dated October 31, 1981, recorded in Liber 16015 at Page 630, made by JOSEPH E. SCALLON & JEWELL C. SCALLON, husband and wife, partners of Haena Land Co. (owner of Sand Land), who are authorized to make this Agreement and Application on behalf of said partnership, "Applicants"; re: Applicants hereby waive and release the COUNTY OF KAUAI, a political subdivision of the State of Hawaii, from all claims and causes of action, either legal or equitable, which may hereafter accrue by reason of any tsunami, stormwave or surface water flooding upon said land.
6. Easement for View, Sunlight & Air (Severance Damages) dated ----- (acknowledged July 30, 1982, August 2, 1982, July 17, 1986 and July 16, 1986), recorded in Liber 19756 at Page 298.

Said Easement was conveyed to JOSEPH E. SCALLON and JUDY C. SCALLON, as Trustees of the 1989 Scallon Family Trust, by instrument dated October 4, 1989, recorded as Document No. 90-012641.

-Note:- Title Guaranty of Hawaii, Incorporated is unable to locate of record a joinder to the above by Scallon, as Trustee. Attention is invited to that certain Termination of Easement recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 91-059622.

7. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Condominium Property Regime dated December 13, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-023508, as the same may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 1449.) Consent and Joinder thereto given by the General Partners of Haena Land Co., a Hawaii General Partnership, by instrument dated May 2, 1991, recorded as Document No. 91-059623. Said Declaration was amended by instrument dated -----, 1991 (acknowledged June 3, 1991, July 1, 1991, June 12, 1991 and June 7, 1991), recorded as Document No. 91-099104. Said Declaration and Condominium Map was further amended by instrument dated October 12, 1991, recorded as Document No. 91-145811.
8. By-Laws of the Association of Apartment Owners of the Condominium Project known as "HAENA LAND COMPANY CONDOMINIUM" dated December 13, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-023509, as the same may hereafter be amended. Consent and Joinder thereto given by the General Partners of Haena Land Co., a Hawaii General Partnership, by instrument dated May 2, 1991, recorded as Document No. 91-059623.
9. Declaration of Protective Covenants and Building Rules for Haena Land Company Condominium dated December 13, 1990, recorded as Document No. 91-023510.

END OF EXHIBIT F

EXHIBIT G

DISCLOSURE ABSTRACT FOR
HAENA LAND COMPANY CONDOMINIUM

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

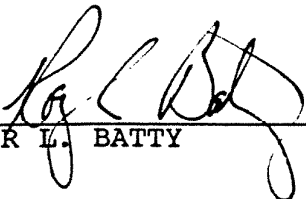
1. The developer of the project is ROGER L. BATTY, 120 Corte Ramon, Greenbrae, CA 94904, (415) 461-5287.

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

3. No warranty will apply to any individual unit. There are pre-existing structures on the property and no warranty will be made regarding the buildings.

4. No condominium units will be used for hotel use; these are condominium units in which residential use only is permitted.

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



ROGER L. BATTY

Dated: October 10, 1991

RECEIPT

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

Purchaser(s)

EXHIBIT H

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
Unit 1	\$510.00	\$6,120.00
Unit 2	\$510.00	\$6,120.00
Unit 3	\$510.00	\$6,120.00
Unit 4	\$510.00	\$6,120.00

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning

Electricity

☐ common elements only

☐ common elements
and apartments

Gas

Refuse Collection

Telephone

Water and Sewer

\$ 55.00

\$ 660.00

Maintenance, Repairs and Supplies

Building

Grounds

\$600.00

\$7,200.00

Management

\$400.00

\$4,800.00

Management Fee

Payroll and Payroll Taxes

Office Expenses

Insurance

\$485.00

\$5,820.00

Reserves

Taxes and Government Assessments

\$500.00

\$6,000.00

Audit Fees

Other

TOTAL

\$2,040.00

\$24,480.00

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



Date: March 13, 1991

EXHIBIT J

DECLARATION OF PROTECTIVE COVENANTS AND BUILDING RULES FOR HAENA LAND COMPANY CONDOMINIUM

The purpose of these Protective Covenants is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the HAENA LAND COMPANY CONDOMINIUM, hereinafter referred to as "Project," and to provide for the maximum enjoyment of the premises, with protection of all owners reasonable expectations. All owners and occupants, their agents, employees and invitees shall be bound by these Building Rules and by standards of reasonable conduct, whether covered by these Building Rules or not.

1. Definitions. As used herein:

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

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

2. Building Permits. Any owner desiring to construct a single family dwelling in a unit will have to comply with the Kauai County building and zoning codes, as the same may be changed from time to time. Each owner will execute a power of attorney in favor of the developer or, thereafter, the president of the Association, for the purpose of securing building permits for all units, because a 75% ownership interest must approve of all filings for building permits. When an association of unit owners is created, the power of attorney will be replaced with a power of attorney in favor of the president of the association of unit owners.

3. Water and Utilities. The water, electricity and telephone already service thi property. Each Unit Owner will be required to maintain such utilities to his respective improvements at his own cost and expense. All future utilities in the condominium Area shall be placed underground.

4. Cesspools. There are no sewer lines and no sanitary sewer system. Each Unit owner will be required to have his own cesspool and/or septic system, to be located within his own limited common element Area.

5. Roadway. The roadway within the Project is unpaved. Each Unit owner will be responsible for clearing all vegetation and growth from his Area to the extent it enters the roadway element.

6. Pets and Animals/Noise in General. The following animals shall be precluded from possession by owners or occupants of the Project: pigs, roosters, and peafowl. Any animals that create such levels of noise or noxious odors that a unit owner makes written objection to the association of unit owners, in the event the complaint is substantiated, shall within 30 days be removed from the Project.

7. Common Area Land. The Association shall determine and control the use of the Common Area lands, including but not limited to use for any farming, raising of animals, landscaping, maintenance and/or any other use which may be decided upon by the Association from time to time.

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

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

END OF EXHIBIT J

JOANN A. YUKIMURA
MAYOR



PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

March 8, 1991

Mr. Steven R. Lee
Attorney at Law
P. O. Box 1166
Lihue, Hawaii 96766

Subject: Certification of Inspection of Existing Buildings for
Haena Land Company Condominium at Haena, Kauai
TMK: 5-8-10:15

The developer of the above-mentioned condominium project ("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 514A-39, HRS). Subject to the disclosures and waiver (item "c" below) specified herein, we certify the following:

- a. The developer has contracted a private engineer to certify that the project is 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 condition of waiver herein, the Planning Department adopts that certification as it pertains to our requirements.
- b. We have no record of any zoning variances that have been granted on the subject property.
- c. WAIVER


The foregoing certification is not a warranty as to any afore-mentioned compliance, nor a representation as to the condition of the property in question. No rights against the County of Kauai shall arise as a result of this certification. The sole reason for the execution hereof being to comply with statutory requirements

EXHIBIT I

Mr. Steven R. Lee
Attorney at Law
Page 2
March 8, 1991

relating to the regulation of condominiums under Subsection 514(A), HRS. This certification shall not be misconstrued to guarantee that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply to all applicable County Codes and Ordinances. It should also be noted that the Condominium Property Regime (CPR) does not mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., will not be provided. Further, such services as County street maintenance and trash collection will not be available for interior roads and driveways, if any.

Please note that the condominiumization of the property does not create separate lots with separate interests. Should you have any questions, please contact Keith Nitta or Bryan Mamaclay of my staff at 245-3919.


PETER A. NAKAMURA
Planning Director