

# 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	
Project Address	
Registration Number	
Effective Date of Report	
Developer(s)	

### 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.

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*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.**

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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 type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	
Address of Project	
Address of Project is expected to change because	
Tax Map Key (TMK)	
Tax Map Key is expected to change because	
Land Area	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	

**1.2 Buildings and Other Improvements**

Number of Buildings	
Floors Per Building	
Number of New Building(s)	
Number of Converted Building(s)	
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	

**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

See Exhibit \_\_\_\_\_ .

	<b>Total Number of Units</b>
--	------------------------------

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:	
Number of Guest Stalls in the Project:	
Number of Parking Stalls Assigned to 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.	

**1.5 Boundaries of the Units**

Boundaries of the unit:

**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):

**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 \_\_\_\_\_ .

As follows:

**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 type="checkbox"/>	Other (describe):

**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 \_\_\_\_\_ .

Described as follows:

Common Element	Number
Elevators	
Stairways	
Trash Chutes	

**1.10 Limited Common Elements**

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

Described in Exhibit \_\_\_\_\_ .

Described as follows:

**1.11 Special Use Restrictions**

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

<input type="checkbox"/>	Pets:
<input type="checkbox"/>	Number of Occupants:
<input type="checkbox"/>	Other:
<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 \_\_\_\_\_ describes the encumbrances against title contained in the title report described below.

Date of the title report:

Company that issued the title report:



**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 type="checkbox"/>	Residential		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<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 type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<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 type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input type="checkbox"/> No	
Describe any variances that have been granted to zoning code				

**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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lot	<input 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>
--

**1.15 Conversions**

<p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>	<p><input type="checkbox"/> <b>Applicable</b></p> <p><input type="checkbox"/> <b>Not Applicable</b></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:</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p>	
<p>Estimated cost of curing any violations described above:</p>	

<p><b>Verified Statement from a County Official</b></p>	
<p>Regarding any converted structures in the project, attached as Exhibit ____ 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"> <li>(i) Any variances or other permits that have been granted to achieve compliance;</li> <li>(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</li> <li>(iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;</li> </ul> <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><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b>  <b>If answer is "Yes", provide information below.</b></p>	<p><input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></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.</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:</p>	

**1.17 Project with Assisted Living Facility**

<p><b>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS?</b>  <b>If answer is "Yes", complete information below.</b></p>	<p><input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></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

<b>2.1 Developer(s)</b>	Name:  Business Address:  Business Phone Number : E-mail Address:
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).	
<b>2.2 Real Estate Broker</b>	Name: Business Address:  Business Phone Number: E-mail Address:
<b>2.3 Escrow Depository</b>	Name: Business Address:  Business Phone Number:
<b>2.4 General Contractor</b>	Name: Business Address:  Business Phone Number:
<b>2.5 Condominium Managing Agent</b>	Name: Business Address:  Business Phone Number:
<b>2.6 Attorney for Developer</b>	Name: Business Address:  Business Phone Number:

### 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

Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number

#### 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

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	
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 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%	
Bylaws	67%	

**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 type="checkbox"/>	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:

## 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 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 \_\_\_\_ 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 type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input type="checkbox"/>	Water
<input type="checkbox"/>	Sewer
<input type="checkbox"/>	TV Cable
<input type="checkbox"/>	Other (specify)

## 5. SALES DOCUMENTS

### 5.1 Sales Documents Filed with the Real Estate Commission

<input type="checkbox"/>	Specimen Sales Contract Exhibit ____ contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input type="checkbox"/>	Escrow Agreement dated: Name of Escrow Company: Exhibit ____ 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 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:

  
  
  

Appliances:



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

Status of Construction:
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 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 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><b>Box A</b></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><b>Important Notice Regarding Your Deposits: 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.</b></p>
<p><b>Box B</b></p> <p><input type="checkbox"/></p>	<p>The Developer has <b>not</b> 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 <b>Important Notice Regarding Your Deposits</b> 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, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (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 <b>Important Notice Regarding Your Deposits</b> 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.	<b>Developer's Public Report</b>
2.	<b>Declaration of Condominium Property Regime (and any amendments)</b>
3.	<b>Bylaws of the Association of Unit Owners (and any amendments)</b>
4.	<b>Condominium Map (and any amendments)</b>
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:

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](http://www.capitol.hawaii.gov)

Website to access rules: [www.hawaii.gov/dcca/har](http://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 30<sup>th</sup> 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**

