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November 18, 2009

## Memorandum

TO: 3702 LOWER HONOAPIILANI, LLC  
c/o Richard J. Kiefer, Esq.  
444 Hana Highway, Suite 204  
Kahului, Hawaii 96732

FROM: REAL ESTATE COMMISSION

SUBJECT: "THE BREAKERS"  
Reg. No. 6392  
Supplementary Public Report

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Enclosed is one true copy of the Developer's Public Report with an effective date issued by the Real Estate Commission ("Commission").

If any circumstance occurs which would render the information contained in the public report and the exhibits to the public report misleading to purchasers in any material respect, it is the developer's responsibility to advise the Commission of such. It is then the developer's responsibility to immediately report in writing to the Commission: (1) the change in circumstances which renders the information in the public report misleading to purchasers in any material respect; and (2) the updated or amended information that would cure the misleading information.

When the public report is misleading to purchasers in any material respect, the developer pursuant to §514A-41, Hawaii Revised Statutes (HRS), is required to stop all sales and offers of sales and immediately submit to the Commission a supplementary public report to update the information contained in the public report. A developer can only resume sales and offers of sales when the Commission issues an effective date for the supplementary public report.

Thirteen-month extensions may be granted by the Commission through written requests received at least thirty (30) calendar days prior to the expiration of the report's effective date, provided that the commission determines that any reported changes to the project and the information contained in the public report does not result in making the information contained in the public report misleading to purchasers in any material respect.

Chapter 514A, HRS, and the related rules, Chapter 107, Title 16, HAR (Hawaii Administrative Rules), impose a number of duties and responsibilities on developers. **A selected few of the many statutory duties and responsibilities include:**

1. Publication of the owner occupant announcement pursuant to §514A-102, HRS, at least once in each of the two successive weeks, and at any time following the issuance of an effective date of the first public report; and for neighbor islands projects, an additional publication in at least one newspaper published at least twice weekly in that neighbor county.
- \* **Submit a copy of the published announcement or advertisement to the Commission.**
2. Delivery and receipt of a true copy of the public report to prospective purchasers pursuant to §514A-62, HRS, (sample enclosed).
3. Registering the unorganized association of apartment owners with the Commission pursuant to §514A-95.1, HRS, when the association of apartment owners has not held its first meeting and it is at least one year after the recordation of the purchase of the first apartment.
4. Registering the unorganized association of apartment owners with the Commission pursuant to §514A-84 (b), HRS, where the developer or affiliate of the developer or a managing agent, manages the operation of the property from the date of recordation of the first apartment conveyance until the organization of the association of apartment owners.
5. Notifying in writing, pursuant to §16-107-63(d), HAR, where the association has not held its first meeting and it is thirty-six months after the filing of the declaration, or by December 31, 1995 where the declaration has been recorded, whichever is the later, each apartment owner of the manner in which replacement reserves for future project maintenance and repairs are being addressed.
6. Compliance with the laws and rules discussed in this memo and all other applicable laws and rules as set forth in Chapter 514A, HRS, and Chapter 107, Title 16, HAR.

Developers and developer's attorneys are advised to continually update themselves with Chapter 514A, HRS, as amended and Chapter 107, HAR.

Enclosure

Attachments:           1) Sample Receipt for Public Report(s) and Notice of Right to Cancel  
                                  2) Copies of Public Report to be provided to the Commission by Developer

cc:     Richard J. Kiefer, Esq. (w/o enclosure and attachment)