



**OLD REPUBLIC**  
TITLE & ESCROW OF HAWAII

75-5722 Kuakini Highway, #108  
Kailua-Kona, HI 96740  
(808) 327-3700 Fax: (808) 327-3705

### PRELIMINARY REPORT

Issued for the sole use of:

COLDWELL BANKER MARYL REALTY  
68-1330 Mauna Lani Drive  
Kamuela, HI 96743

Attention: KAREN BAIL

Our Order Number 6825001094-AB

When Replying Please Contact:

Angela Byerly  
(808) 327-3700

Property Address:

52-4755 Akoni Pule Highway, Hawi, HI 96719

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE & ESCROW OF HAWAII hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered. It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.**

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of December 3, 2009, at 8:00 AM

**OLD REPUBLIC TITLE & ESCROW OF HAWAII**  
For Exceptions Shown or Referred to, See Attached

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OLD REPUBLIC TITLE & ESCROW OF HAWAII  
**ORDER NO. 6825001094-AB**

The form of policy of title insurance contemplated by this report is:

Homeowner's Policy of Title Insurance - 2003; AND ALTA Loan Policy - 1992. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee Simple

Title to said estate or interest at the date hereof is vested in:

DAVID R. ECKLES and ALLENE H. WONG, Trustees of the Pomaikai Trust, under Trust dated October 17, 1996, with full powers to sell, convey, mortgage, lease, etc.

The land referred to in this Report is situated in the State of Hawaii, and described as follows:

See Legal Description Exhibit.

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At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1.

A. Taxes and assessments, general and special, for the fiscal year 2009 - 2010, as follows:

Tax Map Key	:	(3) 5-2-001-001	
1st Installment	:	\$4,094.88	Marked Paid
2nd Installment	:	\$4,094.88	NOT Marked Paid
Total Value	:	\$1,653,200.00	
Land Value	:	\$33,100.00	
Imp. Value	:	\$1,620,100.00	

Said matters affect PARCEL SECOND - LOT 85

B. Taxes and assessments, general and special, for the fiscal year 2009 - 2010, as follows:

Tax Map Key	:	(3) 5-2-001-020	
1st Installment	:	\$50.00	Marked Paid
2nd Installment	:	\$50.00	NOT Marked Paid
Total Value	:	\$1,100.00	
Land Value	:	\$1,100.00	

Said matters affect PARCEL SECOND - LOT 84

C. Taxes and assessments, general and special, for the fiscal year 2009 - 2010, as follows:

Tax Map Key	:	(3) 5-2-001-025	
1st Installment	:	\$50.00	Marked Paid
2nd Installment	:	\$50.00	NOT Marked Paid
Total Value	:	\$10,500.00	
Land Value	:	\$10,500.00	

Said matters affect PARCEL FIRST - LOT 81

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- D. Taxes and assessments, general and special, for the fiscal year 2009 - 2010, as follows:

Tax Map Key	:	(3) 5-2-001-026	
1st Installment	:	\$12.50	Marked Paid
2nd Installment	:	\$12.50	NOT Marked Paid
Total Value	:	\$100.00	
Land Value	:	\$100.00	

Said matters affect PARCEL FIRST - CEMETERY LOT 83)

2. The lien of deferred or roll back taxes, if any.

3. AS TO PARCEL SECOND (LOT 84):

- A. Access rights in favor of Lot 22 (Map 5), Lot 23 (Map 5), Lot 24 (Map 5), Lot 31 (Map 5), and Lot 35 (Map 5), as set forth by Land Court Order No. 18950, filed May 24, 1961.

(Note: Lot 35 (Map 5) was subsequently subdivided into Lot 47 (Map 15) and Lot 48 (Map 15), as set forth by Land Court Order NO. 71183, filed September 19, 1984, by Land Court Order No. 71183 and the access rights set forth therein as to Lot 47 (Map 15) and Lot 48 (Map 15) is not noted on the Certificate of Title set forth herein).

- B. Access rights in favor of Lot 45 (Map 7), as set forth by Land Court Order No. 19716, filed January 19, 1962.

- C. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument	:	GRANT OF EASEMENT
Granted To	:	COUNTY OF HAWAII
Recorded	:	in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 1262217

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D. EASEMENT "25" (area 20,039 square feet)

For : Access and utility purposes

As shown on Map 20

As set forth by Land Court Order No. 140967 filed February 20, 2001

E. EASEMENT "26" (area 32,376 square feet)

For : Access and utility purposes

As shown on Map 20

As set forth by Land Court Order No. 140967 filed February 20, 2001

F. EASEMENT "27" (area 5,248 square feet)

For : Access and utility purposes

As shown on Map 20

As set forth by Land Court Order No. 140967 filed February 20, 2001

G. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : DECLARATION OF VIEWPLANE AND ACCESS EASEMENTS

Dated : February 22, 2001

Recorded : February 28, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2686307

H. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR NIULIIKAI

Dated : August 1, 2001

Recorded : September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734884

OLD REPUBLIC TITLE & ESCROW OF HAWAII  
ORDER NO. 6825001094-AB

I. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Warranty Deed dated August 24, 2001, recorded September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734885, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or natural origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS.

J. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT OF EASEMENT  
Granted To : HAWAII ELECTRIC LIGHT COMPANY, INC. and VERIZON  
HAWAII INC. (now known as Hawaiian Telcom, Inc.)  
For : Easement affecting Easement "26" (Map 20)  
Dated : December 9, 2003  
Recorded : May 3, 2004 in the Office of the Assistant Registrar of the Land  
Court, State of Hawaii, as Document No. 3104352

K. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT OF EASEMENT  
Granted To : JOSEPH REIS VITORINO and KELLY ANN VITORINO  
For : An easement for general utility purposes in favor of Lot 70  
(Map 25) and Lot 71 (Map 25)  
Dated : December 1, 2004  
Recorded : March 16, 2005 in the Office of the Assistant Registrar of the  
Land Court, State of Hawaii, as Document No. 3241675

L. EASEMENT "40" (area 0.289 acre)

For : Utility and access purposes  
As shown on Map 29  
As set forth by Land Court Order No. 164935 filed February 9, 2006

M. EASEMENT "47" (area 43 square feet)

For : Consumer water meter purposes in favor of Lot 81 (Map 32)  
As shown on Map 32  
As set forth by Land Court Order No. 167937 filed October 9, 2006

OLD REPUBLIC TITLE & ESCROW OF HAWAII  
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N. EASEMENT "48" (area 8,203 square feet)

For : Waterline purposes in favor of Lot 59 (Map 20)  
As shown on Map 32  
As set forth by Land Court Order No. 167937 filed October 9, 2006

O. EASEMENT "49" (area 2,967 square feet)

For : Waterline purposes in favor of Lot 81 (Map 32)  
As shown on Map 32  
As set forth by Land Court Order No. 167937 filed October 9, 2006

P. 10 feet wide future road widening setback line

As shown on Map 32  
As set forth by Land Court Order No. 167937, filed October 9, 2006, as corrected by  
Land Court Order No. 178869, filed May 8, 2009

4. AS TO PARCEL SECOND (LOT 85):

A. EASEMENT "24" (area 2.297 acres)

For : Access and utility purposes  
As shown on Map 20  
As set forth by Land Court Order No. 140967 filed February 20, 2001

B. EASEMENT "28" (area 23,433 square feet)

For : Utility purposes  
As shown on Map 20  
As set forth by Land Court Order No. 140967 filed February 20, 2001

C. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : DECLARATION OF VIEWPLANE AND ACCESS EASEMENTS  
Dated : February 22, 2001  
Recorded : February 28, 2001 in the Office of the Assistant Registrar of the  
Land Court, State of Hawaii, as Document No. 2686307

OLD REPUBLIC TITLE & ESCROW OF HAWAII  
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- D. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR NIULIIKAI  
Dated : August 1, 2001  
Recorded : September 5, 2001 in the Office of the Assistant Registrar of  
the Land Court, State of Hawaii, as Document No. 2734884

- E. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Warranty Deed dated August 24, 2001, recorded September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734885, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or natural origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS.

- F. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT OF EASEMENT  
Granted To : HAWAII ELECTRIC LIGHT COMPANY, INC. and VERIZON  
HAWAII INC. (now known as Hawaiian Telcom, Inc.)  
For : Easement affecting Easement "24" (Map 20)  
Dated : December 9, 2003  
Recorded : May 3, 2004 in the Office of the Assistant Registrar of the Land  
Court, State of Hawaii, as Document No. 3104352

- G. EASEMENT "48" (area 8,203 square feet)

For : Waterline purposes in favor of Lot 59 (Map 20)  
As shown on Map 32  
As set forth by Land Court Order No. 167937 filed October 9, 2006

5. AS TO PARCEL FIRST (LOT 81):

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A. As to the portion of the land herein described bordering on the ocean:

The effect of Sections 205A-41 to 205A-49, inclusive, Hawaii Revised Statutes, as now or hereafter amended, pertaining to shoreline setbacks.

Any adverse claim of the State of Hawaii based upon the contention that some portion of the land hereinafter described lies seaward of the line of vegetation, pursuant to the ruling of County vs. Sotomura (1973) 55 H. 176, 517 P. 2d 57.

B. A 10-foot wide future road widening setback line.

C. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT  
Granted To : WATER COMMISSION OF THE COUNTY OF HAWAII  
Recorded : October 11, 1984 in the Bureau of Conveyances, State of Hawaii, in Book 1262217, Page <.....>

D. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : DECLARATION OF VIEWPLANE AND ACCESS EASEMENTS  
Dated : February 22, 2001  
Recorded : February 28, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2686307

E. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR NIULIIKAI  
Dated : August 1, 2001  
Recorded : September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734884

OLD REPUBLIC TITLE & ESCROW OF HAWAII  
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- F. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Warranty Deed dated August 24, 2001, recorded September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734885, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or natural origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS.

6. AS TO PARCEL FIRST (CEMETERY LOT 83):

- A. A 10-foot wide future road widening setback line.
- B. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT  
Granted To : WATER COMMISSION OF THE COUNTY OF HAWAII  
Recorded : October 11, 1984 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 1262217

- C. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR NIULIIKAI  
Dated : August 1, 2001  
Recorded : September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734884

7. Any claim of lien for services, labor or material arising from an improvement or work under construction or completed at the date hereof.

(AS TO PARCEL SECOND (LOT 84))  
(AS TO PARCEL FIRST (LOTS 81 & 83))

OLD REPUBLIC TITLE & ESCROW OF HAWAII  
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If This Transaction Involves A Construction Loan, we must inspect the subject property immediately prior to recordation to determine priority over potential mechanic's liens.

In the event of a loss of priority signed Indemnity Agreements and Financial Statements from all owners, developers and contractors must be submitted to the Title Department at least 3 days prior to the close of the escrow.

8. Terms and provisions contained in the Pomaikai Trust, under Trust dated October 17, 1996, as disclosed by Deed dated August 24, 2001, recorded September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734885.

----- Informational Notes -----

- A. We find no open Mortgage of record. Please verify by inquiry of Escrow Personnel and/or Agents whether or not we have overlooked something and advise the Title Department accordingly prior to closing.

- B. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument  
Entitled : DEED  
By/From : NIULII BY THE SEA, LLC, a Hawaii limited liability company  
To : DAVID R. ECKLES and ALLENE H. WONG, Trustees of the Pomaikai Trust, under Trust dated October 17, 1996, with full powers to sell, convey, mortgage, lease, etc.  
Dated : August 24, 2001  
Recorded : September 5, 2001 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2734885

NOTE: According to the public records, there have been no deeds conveying the property described in this report recorded within a period of 36 months prior to the date hereof except as follows:

NONE

- C. Short Term Rate ("STR") does not apply.

## LEGAL DESCRIPTION EXHIBIT

The land referred to in this Report is situated in the State of Hawaii, and described as follows:

All of those certain parcels of land situate at Makapala, District of North Kohala, Island and County of Hawaii, State of Hawaii, described as follows:

**PARCEL FIRST:**

Lot 81, area 24.888 acres, more or less, and

Cemetery Lot 83, area 0.537 acres, more or less, as shown on Map 32, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1332 of Kohala Sugar Company.

NOTE: Lots 81 and 83 have access to a public highway, to wit the Niulii-Mahukona Main Government Road, over and across Government Road 16-C, as shown on Map 4, and Government Road Lot 18, as shown on Map 3, as set forth by Land Court Order No. 167937 filed October 9, 2006.

**PARCEL SECOND:**

Lot 84, area 23.250 acres, more or less, and

Lot 85, area 24.572 acres, more or less, as shown on Map 34, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1332, of Kohala Sugar Company.

NOTE: Lot 84 abuts Government Road Lot 16-C (Map 4) (a public road), which connects to Government Road Lot 18 (Map 3) (a public road), which connects to Keokea Park Road (a public road), which connects to Niulii-Mohukona Main Government Road (a public road, and shall have direct access thereto; and Lot 85 abuts Niulii-Mohukona Main Government Road (a public road) and shall have direct access there, as set forth by Land Court Order No. 180792 filed November 3, 2009.

Being all the property described in the following:

DEED

Recorded : September 5, 2001 in the Office of the Assistant Registrar of the  
Land Court, State of Hawaii, as Document No. 2734885  
Grantor : NIULII BY THE SEA, LLC, a Hawaii limited liability company  
Grantee : DAVID R. ECKLES and ALLENE H. WONG, Trustees of the Pomaikai  
Trust, under Trust dated October 17, 1996, with full powers to sell,  
convey, mortgage, lease, etc.

Being the property described in and covered by Transfer Certificate of Title No. 590,620.

**HOMEOWNER'S POLICY OF TITLE INSURANCE  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
  - a. building
  - b. zoning
  - c. Land use
  - d. improvements on the Land
  - e. Land division
  - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.

4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.

5. Failure to pay value for Your Title.

6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

For Covered Risk 14, 15, 16, 18, Your Deductible Amount on Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	\$10,000.00
Covered Risk 15:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 16:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 18:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	\$5,000.00

**AMERICAN LAND TITLE ASSOCIATION LOAN POLICY(10—17-92)**  
**AMERICAN LAND TITLE ASSOCIATION LEASEHOLD LOAN POLICY (10—17-92)**  
**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters.
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer, or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

## **Old Republic Title & Escrow of Hawaii**

### **Privacy Policy Notice**

#### **PURPOSE OF THIS NOTICE**

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Old Republic Title & Escrow of Hawaii

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you such as on applications or other forms.
- Information about your transactions we secure from our files, or from [our affiliates or] others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.**

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

