

**EWA OCEANSIDE
APARTMENT SELECTION FORM AND
NOTICE OF CHRONOLOGICAL SYSTEM
AND RECEIPT OF OWNER-OCCUPANT AFFIDAVIT FORM**

Apartment Selection Form

Apartment selected (in order of preference):

Apartment No.

- 1.
- 2.
- 3.

Selection List Number: _____

PRINT Full name of Buyers:

FIRST MIDDLE LAST

FIRST MIDDLE LAST

Address: _____
Street Address

City State Zip

Phone: (Res.) _____ Email: _____
(Bus.) (Husband) _____
(Bus.) (Wife) _____ Fax: _____

Buyer's Signature: _____ Date: _____
Buyer's Signature: _____ Date: _____

This Apartment Selection Form does not constitute a sales contract or a reservation for a particular apartment. If Buyer does not sign the Deposit Receipt, Reservation and Sales Agreement presented by Seller for the purchase of an apartment, then Buyer's deposit is refundable and Buyer shall have no further right to execute a Sales Agreement for an apartment selected.

RECEIPT OF EARNEST MONEY DEPOSIT ACKNOWLEDGED:

Date: _____ Time: _____ A.M./P.M. Check Amount: _____
Check No. _____

By: _____
(Agent for Developer/Real Estate Broker)

Notice and Receipt

This is a Notice given by **SMITH/FOTI DEVELOPMENT LIMITED PARTNERSHIP, a Hawaii limited partnership** (the "Developer") in regard to a fee simple residential condominium project to be known as "**EWA OCEANSIDE**" (the "Project"), apartments in which the Developer plans to sell at 91-069 Fort Weaver Road, Ewa Beach, Hawaii, TMK No. (1) 9-1-005:011. The purpose of this Notice is to inform prospective purchasers of residential apartments in the Project of the chronological system that has been established for selecting prospective purchasers who will be offered the opportunity to enter into sales contracts for such apartments.

By signing below, the undersigned acknowledges the following:

1. The undersigned has received the form of "Affidavit of Intent to Purchase and Reside in an Owner-Occupant designated Condominium Residential Unit" (the "Owner-Occupant Affidavit").
2. The undersigned has read or has been given an opportunity to read the Owner-Occupant Newspaper Announcement ("Pre-Sale Notice") regarding the Project, or a copy thereof, which was first published in the _____ on _____, 2004.
3. Prior to the date on which the Pre-Sale Notice was first published, the undersigned did not receive any advance notice of the first publication date from any person who, to the best of the undersigned's knowledge, is an agent or employee of the Developer, or is a licensed real estate agent.
4. The undersigned has been furnished with or been given an opportunity to review a list of those apartments in the Project which have been designated as "residential apartments" for "sale to prospective owner-occupants" ("designated apartments") pursuant to section 514A-103, HRS.
5. The undersigned understands that the Owner-Occupant designated apartments in the Project will be offered to prospective owner-occupants **in the chronological order in which each has submitted a completed Owner-Occupant Affidavit, a signed Sales Contract and an earnest money deposit in the amount of \$1,000.00.** Those prospective owner-occupants who are not able to select an apartment and enter into a Sales Contract for the purchase of an apartment shall be placed on a back-up reservation list in the order in which they submit a completed Owner-Occupant Affidavit and an earnest money deposit in the amount of \$1,000.00 and shall be listed as "back-up" prospective owner-occupants.
6. This is a "Notice" to prospective owner-occupants and a "Receipt" for the Owner-Occupant Affidavit only. **This is not a contract and does not give the undersigned any right to purchase an apartment in the Project. To be given the right to purchase an apartment, the undersigned must return a fully completed and executed Owner-Occupant Affidavit, a signed Sales Contract and make the earnest money deposit set forth above.**
7. The undersigned has signed this Notice and Receipt in the presence of an agent or representative of the Developer or the Developer's Real Estate Broker.

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

Signed in my presence:

Agent for Developer/Broker

**AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT
DESIGNATED CONDOMINIUM RESIDENTIAL UNIT**

We, the undersigned "owner-occupants," on this ____ day of _____, _____, do hereby declare that it is our intention to purchase and reside in a residential condominium apartment designated for an "owner-occupant" in EWA OCEANSIDE condominium project ("Project"). The developer is Smith/Foti Development Limited Partnership, a Hawaii limited partnership or its affiliate ("Developer").

We understand, affirm, represent and agree by signing this Affidavit that:

1. It is our intent to purchase an owner-occupant designated residential apartment ("designated apartment") pursuant to section 514A-103 of Part VI of the Hawaii Condominium Property Act (the "Owner-Occupant Law"), and upon closing escrow, to reside in the designated apartment as our principal residence for 365 consecutive days.

2. The term "owner-occupant" as used herein is defined in section 514A-101 of the Owner-Occupant Law as:

"... any individual in whose name sole or joint legal title is held in a residential apartment which, simultaneous to such ownership, serves as the individual's principal residence, as defined by the state department of taxation, for a period of not less than three hundred and sixty-five consecutive days; provided that the individual retains complete possessory control of the premises of the residential apartment during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases or assigns the premises for any period of time to any other person in whose name legal title is not held; except that an individual shall be deemed to have complete possessory control even when the individual conveys or transfers the apartment into a trust for estate planning purposes and continues in the use of the premises as the individual's principal residence during this period." (Emphasis added).

3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated apartment, only one designated apartment shall be offered to them or only one of them shall be placed on a back-up reservation list, if any.

4. Until the expiration of this Affidavit (365 days after recordation of the instrument conveying the designated apartment to us), we shall notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the designated apartment.

5. We have personally executed this Affidavit and we are all of the prospective owner-occupants for the designated apartment. This Affidavit shall not be executed by an attorney-in-fact.

6. We shall not sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, convey or otherwise transfer any interest in the designated apartment until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated apartment to us, provided that if we continue to use the apartment as our principal residence during this period, we may convey or transfer the apartment into a trust for estate planning purposes. We understand that we have the burden of proving our compliance with the law.

