

## **NOTICE OF FORECLOSURE SALE**

Resort, Apartment and Commercial Properties  
1 Bay Drive and 129 Bay Drive, Lahaina, Hawaii 96761  
Tax Map Keys: (2) 4-2-004-027 and 028

*Landesbank Baden-Wuerttemberg, New York Branch, et al. v. Kapalua Bay LLC, et al.*  
Civil No. 12-1-1649-06 (Foreclosure), First Circuit Court, State of Hawai`i

An auction will be held for 1) 56 residential and 5 commercial fee simple apartments in the "Kapalua Bay Condominium", 2) 567 club interests in the Kapalua Bay Vacation Ownership Project consisting of undivided 1/12 interests in various condominium units (which specific units are available upon request), 3) leasehold interest for the parcel known as "The Shops at Kapalua Parcel", and 4) certain contract rights known as the ML&P Agreements dated June 19, 2006. For the exact description of the property to be auctioned, please contact the Commissioner. Additional information is available at [www.vcshawaii.com/kapalua](http://www.vcshawaii.com/kapalua).

### **NO OPEN HOUSES**

**AUCTION DATE:** December 3, 2012 at 12:00 p.m. (noon), at the ewa end of the First Circuit Building (Ka'ahumanu Hale) 777 Punchbowl Street, Honolulu, Hawaii.

**TERMS OF SALE:** All of the property listed above will be sold in bulk for one price. There will be no individual sales. No upset price. The property shall be sold in "AS IS" condition, without any representations or warranties whatsoever as to title or possession, and by way of quitclaim conveyance. The successful bidder at the auction sale, except Plaintiff, must make a down payment to the Commissioner in the amount of no less than ten percent (10%) of the highest successful bid price. The down payment must be in cash, money order, by bank cashier's check, or by certified check issued or certified by a financial institution acceptable to the Commissioner in his sole discretion. Prior to bidding, each bidder, except Plaintiff, must establish to the Commissioner's satisfaction such bidder's ability to make the required down payment, in the required form, immediately upon the closure of the bidding. At the Court's discretion, the ten percent (10%) down payment may be forfeited in full or in part if the purchaser fails to pay the balance of the purchase price. In no event shall the purchaser be liable for damages greater than the forfeiture of the 10% down payment. At the confirmation hearing, the Court will allow reopening of the auction by accepting higher bids, the first of which must be at least one hundred five percent (105%) of the highest bid at the public auction. The balance of the purchase price shall be paid to the Commissioner upon the Court's approval and confirmation of the sale, provided that if Plaintiff is the purchaser at the foreclosure sale, the purchaser may satisfy the balance of the purchase price by way of offset up to the amount determined to be due and owing it. The Commissioner may require that the sale close through an escrow even if the purchaser does not require one. All costs and expenses of closing, including without limitation, cost of conveyance, including preparation of the conveyance document, conveyance tax, escrow and recording fees, any proof of title or title insurance, and notary fees, as well as the costs of securing possession of the property, shall be the responsibility of and be paid by the purchaser. Neither the availability of title insurance nor securing possession of the property shall be a condition of closing. Purchaser may be liable for unpaid regular monthly common assessments pursuant to HRS 514B-146 or HRS 514A-90.

**SALE SUBJECT TO COURT CONFIRMATION**

For further information, contact: George W. Van Buren, Commissioner  
745 Fort Street, Suite 1950, Honolulu, Hawaii 96813  
(808) 599-3800 or [gwb@vcshawaii.com](mailto:gwb@vcshawaii.com)