

## NOTICE OF FORECLOSURE SALE

Resort and Commercial Property at  
The Hilton Kauai Beach Resort, Lihu'e, Kua'i, State of Hawai'i  
4331 Kauai Beach Drive, Uhu'e, Hawai'i 96766

iStar FM loans LLC, v. KB Resort LLC; et al.  
Civil No. 08-1-0136 (Foreclosure), Fifth Circuit Court, State of Hawai'i  
Resort and Commercial Property- Kauai Beach Resort Condominium Property Regime

An auction will be held for 145 fee simple resort condominium units and 15 fee simple commercial condominium units and related property to be sold in bulk. The units will NOT be sold individually. For the exact description of the property to be auctioned, please contact the Commissioner.

AUCTION DATE: May 6, 2009 at 12:00 p.m. (noon), at the front entrance to the Fifth Circuit Court Building, 3970 Ka'ana Street, Lihu'e, Hawai'i.

TERMS OF SALE: 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 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 iStar FM loans LLC, 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 iStar FM loans LLC 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 of its secured debt. 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.

### SALE SUBJECT TO COURT CONFIRMATION

Open Houses: April 16, 2009 2 p.m. – 5 p.m.  
April 23, 2009 2 p.m.-5 p.m.

For further information, contact:  
George W. Van Buren, Commissioner  
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(808) 599-3800 or gvanburen@hawaii.rr.com