

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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P. O. BOX 3469
HONOLULU, HAWAII 96801

**PRELIMINARY
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT**

on
BALI H'AI COTTAGE COLONY
Wainiha, Haena
Island and County of Kauai
Hawaii

REGISTRATION NO. 180

IMPORTANT — Read This Report Before Buying

This Report Is Not an Approval or Disapproval of This Condominium Project

It reflects information obtained by the Real Estate Commission in its investigation of the project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project but may only take reservations therefore after

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

Issued: November 7, 1967

Expires: December 7, 1968

SPECIAL ATTENTION

A comprehensive reading of the report is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser and prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED SEPTEMBER 5, 1967. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF HIS INTENTION TO PRE-SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT AND AMENDMENTS THERETO BY ACT 244 (L. 1967) EFFECTIVE JUNE 6, 1967.

1. BALI H'AI COTTAGE COLONY is a proposed leasehold residential condominium project consisting of fifty-two (52) residential apartments arranged throughout thirteen (13) two-story residential buildings.
2. The developer of the project has submitted to the Commission for examination a filing of documents and exhibits which are complete except for some particular requirement, or requirements, which can be expected to be completed as part of the registration.

3. No advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 170A, Revised Laws of Hawaii 1955 (as amended, particularly by ACT 244, L. 1967, effective June 6, 1967) and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
5. If the Final Public Report is not issued within one (1) year from the date of this Preliminary Public Report, November 7, 1967, purchasers and prospective purchasers shall be entitled to refund of all monies paid without further obligation.

NAME OF PROJECT: BALI H'AI COTTAGE COLONY

LOCATION: The approximate 4.0 acres of land committed to the regime is situated on the makai (north) side of the principal government road, State Highway Route 56, in the District of Hanalei, Island and County of Kauai, Hawaii. The site is on the water, being the shoreline of Wainaha Bay, close by the village of Wainiha and approximately one (1) mile from Haena, the development being approximately forty-five (45) miles from the county seat in Lihue.

TAX KEY: FOURTH DIVISION 5-8-11-13 and 14

ZONING: Hotel-Apartment

DEVELOPER: Haena Development Corp., 645 Halekauwila Street, Honolulu, Hawaii. Telephone 566-661. A Hawaii corporation, registered with the Business Registration Division, Department of Regulatory Agencies, State of Hawaii, on September 5, 1967.

The officers are as follows:

Theodore R. DiTullio	President and Treasurer	548 Ahina Street Honolulu, Hawaii
Julia W. DiTullio	Secretary	548 Ahina Street Honolulu, Hawaii
Stephen F. Parker	Vice President	548 Ahina Street Honolulu, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Henshaw, Conroy & Hamilton, (Attention: Mr. Dwight H. Rush) 1410 First National Bank Building, Honolulu, Hawaii. Telephone 561-002.

DESCRIPTION: Fifty-two (52) freehold estates are designated in the spaces within the perimeter walls, floors and ceilings of each of the 52 apartment units contained in thirteen (13) two-story residential buildings (identified in the Declaration of Horizontal Property Regime as Buildings "A" through "M") constructed principally of wood. On the architect's schematic drawings and plans, the apartments are designated and described as follows:

- (a) Apartments A-1 and A-2 are located on the first floor of Building A; and Apartments A-3 and A-4 are located on the second floor of Building A. Apartments B-1 and B-2 are located on the first floor of Building B; and apartments B-3 and B-4 are located on the second floor of Building B. Apartments C-1 and C-2 are located on the first floor of Building C; and apartments C-3 and C-4 are located on the second floor of Building C. Apartments D-1 and D-2 are located on the first floor of Building D; and apartments D-3 and D-4 are located on the second floor of Building D. Apartments E-1 and E-2 are located on the first floor of Building E; and apartments E-3 and E-4 are located on the second floor of Building E. Apartments F-1 and F-2 are located on the first floor of Building F; and apartments F-3 and F-4 are located on the second floor of Building F.

Apartments G-1 and G-2 are located on the first floor of Building G; and apartments G-3 and G-4 are located on the second floor of Building G. Apartments H-1 and H-2 are located on the first floor of Building H; and apartments H-3 and H-4 are located on the second floor of Building H. Apartments I-1 and I-2 are located on the first floor of Building I; and apartments I-3 and I-4 are located on the second floor of Building I. Apartments J-1 and J-2 are located on the first floor of Building J; and apartments J-3 and J-4 are located on the second floor of Building J. Apartments K-1 and K-2 are located on the first floor of Building K; and apartments K-3 and K-4 are located on the second floor of Building K. Apartments L-1 and L-2 are located on the first floor of Building L; and apartments L-3 and L-4 are located on the second floor of Building L. Apartments M-1 and M-2 are located on the first floor of Building M; and apartments M-3 and M-4 are located on the second floor of Building M.

(b) Also designated and described in the specimen Declaration as the immediate common elements to which each apartment has access are the walkways and grounds of the project.

(c) Each residential apartment contains approximately 850 square feet of floor space, including a private lanai, and consists of the following rooms: two bedrooms, one bathroom, one kitchen, one living room and one private lanai.

(d) The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and the built-in fixtures including ranges and garbage disposal units.

COMMON ELEMENTS: The specimen Declaration states there is a freehold estate consisting of all remaining portions of the project, being described and referred to as "common elements", which definition includes the residential buildings, the land on which they are located and all elements mentioned in the Horizontal Property Act which are actually constructed in the project, and specifically includes, but is not limited to: (a) said land in fee simple; (b) all foundations, columns, beams, supports, bearing walls, roofs, chases, entry halls, stairs, walkways, entrances and exits of said buildings; (c) all yards, grounds, landscaping and refuse areas; (d) all parking areas; (e) all pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment for services such as power, light, gas, water, sewer and telephone; (f) office building; and (g) any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called and designated as "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments, and such apartment shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

The stairway serving an apartment or apartments shall be appurtenant to and for the exclusive use of such apartment or apartments which it serves.

INTEREST TO BE CONVEYED PURCHASER: Each residential apartment shall have appurtenant thereto an undivided 1/52 fractional interest (1.923% percentage interest) in the common elements of the project. Such interest is hereby defined and referred to herein as the "common interest". The proportionate

shares in the profits and common expenses of the project and the proportionate representation for voting purposes in the Association of Apartment Owners of the project, shall be in said percentage for each apartment.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: Except for the commercial apartment, the apartments shall be occupied and used only as private dwellings for a single family by the respective owners thereof, their tenants, families, domestic servants and social guests, and for other purpose, unless consent of the Board of Directors is secured. The owners of the respective apartments shall have the absolute right to lease the same subject to the limitations, restrictions, covenants and conditions of this Declaration.

OWNERSHIP TO TITLE: The Notice of Intention states that title to the land is vested in various members of the Nishimoto family. The Certificate of Title prepared January 11, 1966, by Title Guaranty of Hawaii, Incorporated, a Hawaii corporation, verifies that the vestees are as follows: Parcel 1: Ellsworth Noritaka Nishimoto, Lihue, Kauai; Egan Kalaihi Nishimoto, Lihue, Kauai; and Charming Mahilani Ching, 2121 Keeaumoku St., Honolulu, Hawaii, all as Trustees for Bryson Kanohi Nishimoto. Parcel 2: Egan Kalaihi Nishimoto, husband of Jean Sato Nishimoto, Lihue, Kauai. Parcel 3: Ivy Haiwi Nishimoto, wife of Jack N. Nishimoto, Lihue, Kauai.

On June 23, 1966, an Option Agreement was executed between the above identified members of the Nishimoto family, as "Sellers", and Theodore R. DiTullio and Sherman Dowsett, as "Purchasers". As part of the option an Agreement of Sale was executed on June 23, 1966 between the above representatives of the Nishimoto family, as "Sellers"; and Theodore R. DiTullio and Sherman Dowsett, as "Purchasers" specifying the terms and conditions of the installment contract of sale that the land is to be purchased under.

ENCUMBRANCES AGAINST TITLE: Reservation of all mineral and metallic mines are reserved to the Hawaiian government in Royal Patents numbered 7164 and 6960. Easement for free flowage of water in ditch or drainage stream bed as exists on the ground as contained in Deed dated December 23, 1947, recorded in Liber 2099, Page 330, Bureau of Conveyances, State of Hawaii.

PURCHASE MONEY HANDLING: A copy of the September 5, 1967 executed Escrow Agreement identifies Title Guaranty Escrow Services, Inc., a Hawaii corporation, as escrow. On examination the specimen Reservation Agreement, Deposit Receipt and Contract, and the executed Escrow Agreement are found to be in compliance with Chapter 170A, Revised Laws of Hawaii, and particularly Sec. 170A-33., and Sec. 170A-33.1 through 170A-33.5 as incorporated in the Horizontal Property Act through ACT 244 (L. 1967) effective June 6, 1967.

It is incumbent upon the purchaser and prospective purchaser that he reads, with care, the Reservation Agreement, Deposit Receipt and Contract and the Executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of units and all sums from any source are placed in trust, as well as the retention and disbursements of said trust funds.

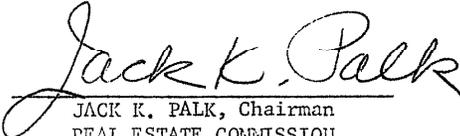
MANAGEMENT AND OPERATIONS: Under the proposed By-Laws of the Association of Apartment Owners, the Board of Directors have the authority to employ a responsible Hawaii corporation as Managing Agent to manage and control the project. In his October 9, 1967 communication to the Commission, the declarant advises that Haena Development Corp., is nominated as the Managing Agent.

STATUS OF PROJECT: The developer gives notice that construction of the project will start after seventy-five (75%) percent of the units have been pre-sold in the merchandising program. No building contract, performance bond or statement of program of financing has been submitted with the registration.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the developer in the required Notice of Intention submitted September 5, 1967 and information subsequently filed as of October 9, 1967.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 130 filed with the Commission on September 5, 1967.

The report, when reproduced, shall be a true copy of the Commission's public report. The paper stock must be yellow in color.


JACK K. PALK, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

REB:sw

Distribution:

DEPARTMENT OF TAXATION
BUREAU OF CONVENANCES
PLANNING & TRAFFIC COMMISSION, COUNTY OF KAUAI
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

November 7, 1967
Registration No. 130