REAL ESTATE COMMISSION
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES
STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

FINAL
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
AINA KU'AI KAI
40 Kai One Place
Kailua, Oahu, Hawaii

REGISTRATION NO. 267

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 until

(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: August 22, 1969
Expires: September 22, 1970

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 MARCH 19, 1969, AND INFORMATION SUBSEQUENTLY FILED AS LATE AS JULY 10, 1969. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT AND AMENDMENTS THERETO.

1. AINA KU'AI KAI is a proposed fee simple condominium project consisting of seven (7) individual dwellings; six (6) dwellings being equipped with enclosed attached garages, and one (1) dwelling having a detached double carport.

2. The Developer has complied with Section 514, Hawaii Revised Statutes, and has fulfilled the requirements of the Commission for the issuance of a Final Public Report.

   This Final Public Report is made a part of the registration on AINA KU'AI KAI Condominium Project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers. Securing a

signed copy of the Receipt for Horizontal Property Regime Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.

3. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.

   The Developer, under date of May 15, 1969, reports that the basic documents (Declaration of Horizontal Property Regime, with By-Laws of the Association of Dwelling Owners attached, and a copy of the approved Floor Plans) have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

   The Declaration of Horizontal Property Regime, dated May 13, 1969, with By-Laws attached, was filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on May 15, 1969 as Document No. 473,325 and duly noted on Transfer Certificates of Title No. 121568, No. 121,697 and No. 125,541. Amendment to Declaration of Horizontal Property Regime dated May 23, 1969 was filed as aforesaid on May 27, 1969 as Document No. 474420, and a Second Amendment to Declaration of Horizontal Property Regime dated July 8, 1969 was filed as aforesaid on July 9, 1969 as Document No. 477886.

   The approved Floor Plans showing the layout, location, dwelling number, etc. have been designated Condominium Map No. 78 by the Assistant Registrar's Office.

4. No advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.

5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

6. This Final Public Report expires thirteen (13) months from the date of issuance, August 22, 1969, unless a Supplementary Report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: AINA KU'AI KAI

LOCATION: The 86,471 square feet of land committed to the project is situate at Pueohala, Kailua, District of Koolaupoko, City and County of Honolulu, State of Hawaii.

TAX KEY: FIRST DIVISION 4-3-18: por. 10, 14 and 15.

ZONING: R-3 (Residential Use)

DEVELOPER: R. S. ELLSWORTH, INC., a Hawaii corporation, 425 Alexander Young Building, Honolulu, Hawaii, the officers of which are as follows:

R. S. Ellsworth	President
Hoyt F. Kelley	Vice-President
Suzanne D. Witt	Secretary-Treasurer

ATTORNEY REPRESENTING DEVELOPER: HENSHAW, CONROY & HAMILTON (Mr. Dwight M. Rush), 1410 First Hawaiian Bank Building, Honolulu, Hawaii, telephone 536-1002.

DESCRIPTION: The plan is to build seven (7) separate residences, numbered #1 to #7, inclusive, and designated on the floor plans as "House Plan No. 2", "House Plan No. 3", and "House Plan No. 4". Each dwelling contains the number of rooms and approximate floor area according to its respective plan as follows:

1. House Plan No : Three (3) dwellings, being ts #2, #3, and #4, contain twelve (12) rooms each, including five (5) bedrooms, three (3) bathrooms, an attached enclosed garage and an arcade. The total floor area of each of these dwellings is 2,825 square feet, including the garage area of 440 square feet and the arcade area of 145 square feet.

   NOTE: The Commission has been advised that a stop work order issued by the Director, Planning Department, City and County of Honolulu, is in effect as to units #3 and #4. It is the Commission's understanding that the Director is expecting a technical report to be filed, by an authority, on the use of makai or seaward portions of the property on which units #3 and #4 are to be built. The Commission will be advised when a determination has been made regarding the lifting of the existing stop work order.

2. House Plan No. 3: Three (3) dwellings, being units #5, #6, and #7, are two-story structures and contain thirteen and one-half (13½) rooms each, including five (5) bedrooms, three and one-half (3½) bathrooms and an attached enclosed garage-storage area. The total floor area of each of these dwellings is 2,880 square feet, including the garage-storage area of 460 square feet.

3. House Plan No. 4: One (1) dwelling, being unit #1, contains nine (9) rooms, including four (4) bedrooms, two (2) bathrooms and a detached double carport. The total floor area is approximately 3,272 square feet, including the carport of approximately 480 square feet.

Each dwelling has immediate access to the adjacent grounds and driveways of the project, all as more particularly shown on said Condominium Map No. 78. Each dwelling shall include all fixtures originally installed, including range, refrigerator, garbage disposal, washer, dryer and carpets.

COMMON ELEMENTS: The Declaration states that one fee simple estate is to be designated of all remaining portions of the project, called "common elements", including but not limited to: (a) The land in fee simple; (b) Access drive, grounds, roadways and dwelling sites; (c) All central and appurtenant installations, including all pipes, wires, cables, conduits and other utility lines running within said land for services such as power, light, gas and water; (d) any and all other apparatus and installations existing for common use; and (e) 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, called "limited common elements", are designated and set aside for the exclusive use of certain dwellings, and such dwelling shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and reserved include but are not limited to, all items set forth in the condominium map as limited common elements and the site of each dwelling, consisting of the land beneath such dwelling, which shall be appurtenant to and for the exclusive use of such dwelling.

INTEREST TO BE CONVEYED TO PURCHASER: Each dwelling shall have appurtenant thereto an undivided 14.285% percentage interest (1/7th fractional interest) in all common elements of the project and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting.

PURPOSE OF DWELLINGS AND RESTRICTIONS AS TO USE: The dwellings shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and for no other purpose. The dwellings shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than thirty (30) days, or (b) any rental in which the occupants of the dwelling are provided customary hotel services, such as room service for food and beverage, maid service, laundry and linen, or bellboy service. Except for such transient or hotel purposes, the owners of the respective dwellings shall have the absolute right to rent or lease the same, subject to the limitations, restrictions, covenants and conditions of the Declaration of Horizontal Property Regime, as amended.

OWNERSHIP TO TITLE: The Notice of Intention states the ownership to title is vested in R. S. Ellsworth, Inc., a Hawaii corporation.

ENCUMBRANCES AGAINST TITLE: The title insurance policy dated February 26, 1969 identifies the following as encumbrances against the title:

1. Exception of any portion of the land lying makai or seaward of the line established by the Supreme Court of the State of Hawaii in the case of Application of Ashford, 50 H. _____, 440 P. 2d 76. (Affects Parcels First, Second and Third only.)

2. As to Lots 25-E, 25-F, 26-E and 26-F Only:

   "And it is agreed and understood between the parties hereto that they shall construct a roadway and pathway over the above described parcels of land, at a cost to be borne equally between them for the purpose of providing rights of way for ingress and egress between their adjacent properties and Kalaheo Avenue at Kailua aforesaid," as set forth in that certain Exchange Deed dated June 20, 1945, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 79005. (Affects Parcels Second and Third only.)

3. As to Lots 25-F and 26-F Only:

   Grant dated December 13, 1950, filed in said Office of the Assistant Registrar as Document No. 126026, in favor of The Hawaiian Electric Company, Limited and Mutual Telephone Company (now Hawaiian Telephone Company), granting easement for utility purposes over and across said Lots 25-F and 26-F. (Affects Parcels Second and Third Only.)

4. The terms and provisions of that certain Agreement dated June 21, 1957, filed in said Office of the Assistant Registrar as Document No. 205047, to which reference is hereby made. (Affects Parcel Fourth only.)

5. Grant dated July 19, 1963, filed in said Office of the Assistant Registrar as Document No. 315356, in favor of the City and County of Honolulu, granting an easement to construct, etc., an underground sewer pipe line, etc., under and across Lots 25-F and 26-F. (Affects Parcel Second only.)

6. Designation of Easement X over Lot 273, as shown on Map 142, as set forth by Land Court Order No. 23109, filed August 20, 1964. (Affects Parcel First only.)

   (NOTE #1: Designation of new Lot 300 as set forth by Land Court Order No. 27360, filed December 20, 1967)

   (NOTE #2: Designation of new Lot 302 as set forth by Land Court Order No. 27929, filed January 10, 1968)

7. Judgment and Final Order of Condemnation dated December 20, 1963, filed in said Office of the Assistant Registrar as Document No. 323181, made in the matter entitled City and County of Honolulu, a municipal corporation, Plaintiff, vs. Anthony Burnham Boynton, et al , Defandants, filed in the Circuit Court of the First Circuit, State of Hawaii, under Civil No. 12751. Re: Easement for sanitary sewer purposes over and across Lot 24-B. (Affects Parcel Fourth only.)

8. Grant dated July 10, 1963, filed in said Office of the Assistant Registrar as Document No. 346087, in favor of the City and County of Honolulu, a municipal corporation, granting forever, the right in the nature of an easement, to construct, etc., an underground sewer pipe line or lines, etc., under and across Parcel 16, over Lot 26-F, Parcel 17 over Lot 25-F, and Parcel 21 over Lots 25-E and 26-E, to which reference is hereby made. Consent thereto filed as Document No. 346089. (Affects Parcel Third Only.)

9. Grant dated March 29, 1966, filed in said Office of the Assistant Registrar as Document No. 387421, in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, both Hawaii corporations, granting an easement for utilities over said Lot 24-B. (Affects Parcel Fourth only.)

10. Real Estate Mortgage and Financing Statement dated February 20, 1969, filed in said Office of the Assistant Registrar as Document No. 467011, made by R. S. Ellsworth, Inc., as Mortgagor, to Bank of Hawaii, as Mortgagee, to secure the repayment of the sum of $560,000.00.

PURCHASE MONEY HANDLING: An Escrow Agreement, dated March 18, 1969, an executed copy of which has been filed with the Commission, identifies Bank of Hawaii, a Hawaii corporation, as the Escrow Agent for the project. On examination the specimen Reservation Agreement, Deposit Receipt and Contract and the Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes. Developer has complied with the provisions of Sec. 514-15 by filing with the Commission the following:

1. Developer's statement of a total development cost of $804,609.07, dated March 4, 1969.

2. Copies of executed construction contracts for the construction of dwelling units No. 2 through 8, all dated February 25, 1969. Each of the seven (7) construction contracts stipulate a completion date of one hundred and twenty (120) working days from date authorized to commence, subject, however, to conditions beyond the control of the contractor, Benge Corporation and B. L. Snow Enterprises, Inc., Joint Venturer.

3. Satisfactory evidence that Developer has sufficient funds from interim loan, Developer's equity funds, and anticipated purchasers' funds.

4. Copies of performance bonds for all seven dwellings with Lewers & Cooke, Inc., as "surety." Said bonds, executed on February 25, 1969, are for the sum equal to 100% of each construction contract price.

5. Copy of the executed Escrow Agreement which contains provisions for the protection of purchasers' funds, in compliance with Sec. 514-15, Hawaii Revised Statutes.

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 latter document, the Escrow Agreement, establishes how the proceeds from the sale of the dwellings and all sums received from any source are placed in trust, as well as the retention and disbursement of said trust funds.

MANAGEMENT AND OPERATIONS: The declarant discloses that the administration of the project shall be vested in the Association of Dwelling Owners. The By-Laws of the Association place the responsibility of employing a responsible Managing Agent to manage and control the project subject at all times to direction by the Board. R. S. Ellsworth, Inc., a Hawaii corporation, has been identified as the Managing Agent.

STATUS OF PROJECT: The declarant states that construction has commenced at the site and estimates that the improvements will be completed on or about September 15, 1969. The name of the contractor is Benge Corp. - Snow & Ota Builders, Inc., a joint venture.

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 March 19, 1969, and additional information filed as late as July 10, 1969.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 267 filed with the Commission on March 19, 1969.

The report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white in color.

WILLIAM H. C. YOUNG, Member
REAL ESTATE COMMISSION
STATE OF HAWAII

REB:km

Distribution:
DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, CITY & COUNTY OF HONOLULU
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

August 22, 1969
Registration No. 267