

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII  
1010 RICHARDS STREET  
P. O. BOX 3469  
HONOLULU, HAWAII 96801

## PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on

KIHEI BEACH CONDOMINIUM  
Kihei, Maui, Hawaii

REGISTRATION NO. 371

### 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: August 19, 1971

Expires: September 19, 1972

#### SPECIAL ATTENTION

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

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION DATED FEBRUARY 13, 1971, AND INFORMATION SUBSEQUENTLY FILED AS LATE AS AUGUST 19, 1971. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. Kihei Beach Condominium is a proposed leasehold condominium project which will consist of a six (6) story building having a total of fifty-four (54) apartment units. Fifty-nine (59) parking stalls will be available.
2. The Developer of the project has filed all documents and materials being necessary by the Commission for the registration of this proposed condominium project and the issuance of this Preliminary Public Report.
3. No advertising or promotional matter has been filed 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 the Horizontal Property Act, Chapter 514 of

the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

5. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, August 19, 1971, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

NAME OF PROJECT: KIHEI BEACH CONDOMINIUM

LOCATION: The site, containing approximately 56,686 square feet, is located on the makai side of Kihei Road, Kihei, Maui, Hawaii. The site is located on the beach.

TAX MAP KEY: 3-8-13: 3, 4, 5

ZONING: Hotel-medium

DEVELOPER: S & M DEVELOPMENT CO., INC., a Hawaii corporation, having its principal place of business and post office address at 1410 First Hawaiian Bank Building, Honolulu, Hawaii. The officers of the corporation are Frank J. Snopko, President and Treasurer, whose address is P. O. Box 887, Kihei, Maui, Hawaii 96753; and Jack M. Beauchamp, Vice President and Secretary, whose address is 336 W. Lk. Samm. Drive, N.E., Bellevue, Washington 98004.

ATTORNEY REPRESENTING DEVELOPER: Henshaw, Conroy & Hamilton (Attention: Dwight M. Rush), 1410 First Hawaiian Bank Building, Honolulu, Hawaii 96813, Phone 521-2611.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a leasehold condominium project consisting of a six (6) story concrete and hollow concrete block building. There will be fifty-four (54) freehold estates designated in the space within the perimeter walls of each of the fifty-four (54) apartment units contained in the building, which spaces, referred to herein as "apartments," are designated on said plans and described as follows:

1. Apartments numbered 101 through 104, inclusive, and 107 through 110, inclusive, are located on the first floor of the building; apartments 201 through 210, inclusive, are located on the second floor of the building; apartments 301 through 310, inclusive, are located on the third floor of the building; apartments 401 through 410, inclusive, are located on the fourth floor of the building; apartments 501 through 510, inclusive, are located on the fifth floor of the building; and apartments 602, 603, 605, 606, 608 and 609 are located on the sixth floor of the building.
2. The apartments are constructed according to five (5) different Floor Plans, designated A through E on said plans and each contains the number of rooms and the approximate floor area, according to its respective floor plan, as follows:
  - a. Floor Plan A: Apartments 101, 201, 301, 401, 501, 110, 210, 310, 410, 510, 602, and 609 are constructed according to Floor Plan A and consist of two bedrooms, a combined living room and dining area, kitchen, entry hall, two bathrooms and a patio, and contain a total area of approximately 1,010 square feet, including the patio except that apartments 602 and 609 each contains a total area of approximately 1,003 square feet, including the patio.
  - b. Floor Plan B: Apartments 102, 202, 302, 402, 502, 109, 209, 309, 409, and 509 are constructed according to Floor Plan B and consist of two bedrooms, two bathrooms, a combined living room and dining area, kitchen, entry hall and a patio, and contain a total area of approximately 1,003 square feet, including the patio.

- c. Floor Plan C: Apartments 103, 203, 303, 403, 503, 603, 108, 208, 308, 408, 508, and 608 are constructed according to Floor Plan C and consist of one bedroom, one bathroom, a combined living room and dining area, kitchen, entry hall and a patio, and contain a total area of approximately 813 square feet, including the patio.
- d. Floor Plan D: Apartments 104, 204, 304, 404, 504, 107, 207, 307, 407, and 507 are constructed according to Floor Plan D and consist of one bedroom, two bathrooms, combined living room and dining area, kitchen, entry hall and a patio, and contain a total area of approximately 817 square feet, including the patio.
- e. Floor Plan E: Apartments 205, 305, 405, 505, 605, 206, 306, 406, 506, and 606 are constructed according to Floor Plan E and consist of one bedroom, two bathrooms, kitchen, entry hall, a combined living room and dining area, and a patio, and contain a total area of approximately 859 square feet, including the patio.

Each apartment has access to an exterior corridor which leads to an elevator at one end of the building and a stairway at the other end of the building.

- 3. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, 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 herein-after provided. Each apartment shall be deemed to include all the walls and partitions which are not load bearing within its perimeter walls, windows and window frames, door and door frames, floor and ceilings, the air space bounded by the patio railing and the built-in fixtures.

COMMON ELEMENTS: The proposed Declaration reflects that all remaining portions of the project shall comprise an estate, being described and referred to herein as the "common elements," which estate shall include the building, land on which it is 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: (1) Said land in fee simple; (2) All foundations, columns, beams, supports, load-bearing walls, roofs, chases, entry halls, stairs walkways, entrances and exists of said building; (3) All yards, grounds, landscaping and refuse areas; (4) The recreation room and patio adjacent thereto, on the ground (first) floor of the building; (5) All parking areas; (6) 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, telephone, and television signal distribution, if any; (7) Swimming pool and adjacent areas; (8) The area designated "Laundry," on said map; and (9) 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 apartments 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:

Each entry hallway adjoining and 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 TO PURCHASERS: The proposed Declaration states that each apartment shall have appurtenant thereto an undivided 1/54th fractional interest (1.8518+ 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 of 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: The Declaration provides that the apartments shall be occupied and used as private dwellings by the respective owners thereof, their tenants, families, domestic servants and personal guests. The apartments may also be used for hotel or occupation by transients. The apartments may not be used for any other purpose unless consent of the Board of Directors of the Association of Apartment Owners is secured. The owners of the respective apartments shall have the absolute right to lease the same, subject to limitations, restrictions, covenants and conditions of the Declaration.

OWNERSHIP OF TITLE: The Developer in its Notice of Intention represents that the owners of the fee title to the property committed to the project are Norman Quigley, husband of Joyce Lee Quigley, as to the real property described as paragraph "FIRST" of Exhibit "A" attached to the Declaration, and Isaac B. Feig and Timotea R. Feig, husband and wife, as to the real property described in paragraphs "SECOND" and "THIRD" of said Exhibit "A". Preliminary Reports issued by Title Guaranty of Hawaii, Incorporated, dated August 11, 1971, copies of which have been filed with the Commission, certify that such representation is correct and also describe the respective portions of said property owned by said owners.

ENCUMBRANCES AGAINST TITLE: The Developer has submitted to the Commission for examination copies of Option Agreements dated February 12, 1971 and February 19, 1971, by the terms of which the said Norman Quigley and said Isaac B. Feig and Timotea R. Feig, respectively, have granted to Frank J. Snopko and Jack M. Beauchamp, exclusive options to lease the property submitted to the Regime upon terms and conditions described and set forth in the lease attached to said Option Agreements as Exhibit 1 and incorporated therein by reference. The Developer represents that all of the right, title and interest in and to each of said Option Agreements shall be assigned to it by Frank J. Snopko and Jack M. Beauchamp prior to the exercise and/or expiration thereof.

The Preliminary Reports, dated August 11, 1971, issued by Title Guaranty of Hawaii, certify that there are no liens or encumbrances of whatsoever kind or nature against said title, save and except the following, to wit: (a) Taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the District in which said land is situated; (b) The location of the seaward boundary of the above-described lots as affected by the law of the State of Hawaii.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated August 10, 1971, between American Abstract and Escrow, Inc., as "Escrow," and S & M Development Co., Inc., as "Seller," has been filed with the Commission. On examination, the executed Escrow Agreement, as well as the specimen Condominium Reservation Agreement, Deposit Receipt and Contract, filed with the Commission is found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly Sections 514-36 through 514-40, H.R.S. Among other provisions, the executed Escrow Agreement states that a purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said purchaser, without interest and less Escrow's cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred: (a) Escrow receives a written request from Seller to return to purchaser the funds of such purchaser then held hereunder by Escrow; or (b) If purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the building plans, subsequent to the execution of purchaser's contract, requiring the approval of a county officer having jurisdiction over the issuance of permits for construction, unless the purchaser has given written approval of acceptance of the change; or (c) If the request is prior to the time the Final Public Report is issued, or if after such time, the Final Report differs in any material respect from the Preliminary Report,

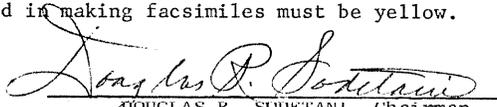
unless the purchaser has given written approval or acceptance of the differences; or (d) If the Final Report is not issued within one year from the date of issuance of the Preliminary Report. It is incumbent on the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the Condominium Reservation Agreement, Deposit Receipt and Contract, since the Escrow Agreement prescribes the procedure for receiving and disbursing purchasers' funds. The specimen sales agreement specifically provides that the purchaser approve said Escrow Agreement and assume the benefits and obligations therein provided.

MANAGEMENT OF THE PROJECT: The proposed By-Laws which are incorporated in the proposed Declaration provide that the operation of the project shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible corporate managing agent.

STATUS OF PROJECT: Complete and final plans and specifications are in the process of preparation. The Developer reasonably contemplates signing a contract for construction with Frank J. Snopko in the near future. No commitment for financing for interim construction financing has as yet been obtained by the Developer.

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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 9, 1971, and information subsequently filed as late as August 19, 1971.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 371 filed with the Commission March 9, 1971. This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be yellow.

  
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DOUGLAS K. SUDEVANI, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

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Distribution:  
DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING COMMISSION, COUNTY OF MAUI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

August 19, 1971  
Registration No. 371

