

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

1010 RICHARDS STREET
P. O. BOX 3489
HONOLULU, HAWAII 96801

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

on

KOLOA GARDEN APARTMENTS
Poipu Road
Koloa, Kauai, Hawaii

REGISTRATION NO. 391

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: July 14, 1972

Expires: August 14, 1973

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 JUNE 8, 1971, AND INFORMATION SUBSEQUENTLY FILED AS OF JULY 14, 1972. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL AND REPORTING CHANGES IN THE PLAN, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. The Developer has complied with Chapter 514, Hawaii Revised Statutes and has fulfilled the requirements for the issuance of a Final Public Report.
2. Since the issuance of the Commission's Preliminary Public Report on Registration No. 391, dated June 25, 1971, the Developer has forwarded additional information reflecting changes in the documents and plans for the project.

This Final Public Report is made a part of the registration on Koloa Garden Apartments condominium project. The

Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers receiving the Preliminary Public Report (yellow paper stock). 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 reports that the basic documents (Declaration of Horizontal Property Regime, with By-Laws of the Association of Apartment Owners attached, and a copy of the Approved Floor Plans) have been filed in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime, executed June 16, 1972, with By-Laws attached, was recorded in the Bureau of Conveyances of the State of Hawaii on June 19, 1972, in Liber 8374, Page 199.

The approved Floor Plans showing the layout, location, apartment numbers, etc. have been designated Condominium Map No. 234 by the Registrar, Bureau of Conveyances.

4. 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 months from the date of issuance, July 14, 1972, unless a supplementary report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information in the topical headings of the Preliminary Public Report of June 25, 1971, with the exception of NAME OF PROJECT, ZONING, DEVELOPER, LIMITED COMMON ELEMENTS, INTEREST TO BE CONVEYED TO PURCHASER, PURCHASE MONEY HANDLING, and MANAGEMENT AND OPERATIONS, has not been disturbed.

NAME OF PROJECT: KOLOA GARDEN APARTMENTS

LOCATION: The 64,644 square feet of land committed to the project is located on the West side of Poipu Road, Koloa, Island and County of Kauai, State of Hawaii, Tax Key No. 4th Division, 2-6-4-31. Also 7,274 square feet has been committed to the project for parking, Tax Key No. 2-6-4-39 (Portion) and 38 (Portion).

ATTORNEY REPRESENTING DEVELOPER: Conroy, Hamilton, Gibson, Nickelsen and Rush (Attention Dwight M. Rush and Walter Beh, II), 20th Floor, Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813, Telephone 521-2611.

DESCRIPTION: The only changes are the specific description of the two bedroom apartments and the one bedroom apartments as follows:

Two Bedroom Apartments: Twelve (12) apartments, being Nos. 1 to 12, inclusive, contain six (6) rooms, including two (2) bedrooms, two (2) bathrooms, one (1) kitchen, one (1) living-dining room, a storage area, and a lanai. The floor area of each of the two bedroom apartments on the lower floors, being Apartment Nos. 1,3,5,7,9 and 11, is approximately 1,271 square feet, including the lanai of approximately 150 square feet and the storage area of approximately 46 square feet. The floor area of each of the two bedroom apartments on the upper floors, being Apartment Nos. 2,4,6,8,10 and 12, is approximately 1,250 square feet, including the lanai of approximately 150 square feet and the storage area of approximately 25 square feet.

One Bedroom Apartments: Eight (8) apartments, being Nos. 13 to 20, inclusive, contain five (5) rooms, including one (1) bedroom, one (1) bathroom, one (1) dressing room, one (1) living-dining room, one (1) kitchen, a storage area and a lanai. The floor area of each of the one bedroom apartments on the lower floors, being Apartments Nos. 13,15,17 and 19, is approximately 752 square feet, including the lanai of approximately 95 square feet and the storage area of approximately 26 square feet. The floor area of each of the one bedroom apartments on the upper floors, being Apartments Nos. 14, 16,18 and 20 is approximately 745 square feet, including the lanai of approximately 95 square feet and the storage area of approximately 19 square feet.

COMMON ELEMENTS: The Declaration states that one freehold estate is to be designated of all remaining portions of the project, called "common elements", including specifically but not limited to: (a) said land in fee simple; (b) all foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter and load bearing walls, roofs, chases, entries, stairways and walkways of said building; (c) all yards, grounds, landscaping, swimming pool and other recreational facilities, all refuse facilities, all roads, parking areas and drive-ways; (d) all ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities and installation over, under and across the project for services such as power, light, water, gas, sewer, air conditioning, telephone and radio and television signal distribution, if any; and (e) the one story building, designated "F", on said Condominium Map.

In addition, the Developer has obtained by assignment a lease, recorded in the Bureau of Conveyances of the State of Hawaii, in Liber 8176, at Page 146, covering a certain portion of land of approximately 7,274 square feet located adjacent to the south side (Poipu Beach) of the project for use solely as a parking area for the project, such use being subject to all the terms and conditions of said lease; said lease has a term expiring on January 1, 1992 and has been assigned by the Developer to the Association of Apartment Owners of Koloa Garden Apartments, by instrument dated June 22, 1972 and recorded as aforesaid in Liber 8384, Page 371.

NOTE: The Developer advises that the Planning Department of the County of Kauai currently requires that twenty (20) parking spaces be provided for a project consisting of twenty (20) units, and that approximately thirty-three (33) parking spaces have been provided for the project by the Developer. Of these thirty-three (33) parking spaces, eleven (11) parking spaces are currently located on the aforementioned leasehold land, and thus these eleven (11) parking spaces will no longer be available for use by the apartment owners after the expiration of the term of said lease, January 1, 1992, and twenty-two (22) parking spaces are on the fee simple land.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE: The residential apartments shall be occupied and used only as residences by the respective owners thereof, their tenants, families, domestic servants and social guests. The initial House Rules of the project provide that apartments shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than six (6) months, or (b) any rental in which the occupants of the apartments are provided with 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 apartments shall have the absolute right to lease or rent such apartments, subject to all provisions of the Declaration of Horizontal Property Regime. Children under fourteen (14) years of age are not permitted to be permanent residents of an apartment, which permanent residency is defined as residency for any continuous period of more than one (1) month.

OWNERSHIP OF TITLE: The Developer represents that the ownership of title in the fee simple lands of the project is vested in several individuals, namely, Charles French, Lois Reed French, Larry Carlsen, Pauline B. Carlsen, Edward R. Dale, Clara P. Dale, Anthony Giraldes, Norma L. Giraldes, Gertrude McGinnis, Edward Stahl, Elizabeth L. Stahl, Sally Morrison and Gladys Johnston. Developer has submitted a preliminary report dated May 5, 1972, prepared by Security Title Corporation showing said property was conveyed to the said individuals by Deed dated May 24, 1971, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 7578, Page 202.

The Developer also represents that the ownership of title in the aforementioned leasehold land of approximately 7,274 square feet located adjacent to the south side (Poipu Beach) of the project is vested in McBryde Sugar Company, Limited, a Hawaii corporation. A lease of said property was issued by said corporation to Patrick North, of Kauai, Hawaii, dated January 1, 1972, and recorded as aforesaid in Liber 8176, at Page 146; said lease was assigned to the Developer by instrument dated May 26, 1972 and recorded as aforesaid in Liber 8332, at Page 1. Developer has assigned the said lease to the Association of Apartment Owners of Koloa Garden Apartments by instrument dated June 22, 1972 and recorded as aforesaid in Liber 8384, at Page 371.

ENCUMBRANCES AGAINST TITLE:

- A. A Preliminary Report dated May 5, 1972, issued by Security Title Corporation, as submitted to the Commission, provides that the following are encumbrances against title to the aforementioned fee simple property:
1. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patents numbered 6714 and 4053.
 2. For any 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 Fourth Division.
 3. Reservation in favor of McBryde Sugar Company, Limited, a Hawaii corporation, of all water rights as are or may be appurtenant to said premises, as reserved in that certain Deed dated September 19, 1949, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 2258, Page 489.

4. Financing Statement, undated, recorded as aforesaid in Liber 7823, Page 110.
5. Real Property Mortgage and Financing Statement dated September 21, 1971, recorded as aforesaid in Liber 7823, Page 140, to secure an indebtedness of \$455,000.00, made by Charles French, Lois Reed French, Larry Carlsen, Pauline B. Carlsen, Anthony Giraldes, Norma L. Giraldes, Edward R. Dale, Clara P. Dale, Edward Stahl, Elizabeth L. Stahl, Gertrude McGinnis, Gladys Johnston and Sally Morrison, as Mortgagors, to First Hawaiian Bank, a Hawaii corporation, as Mortgagee.
6. Financing Statement, undated, recorded as aforesaid in Liber 8099, Page 403.
7. Financing Statement, undated, recorded as aforesaid in Liber 8099, Page 405.

NOTE: The Developer has advised that either the said real property mortgage and financing statements will be released prior to the issuance of a deed for any of the apartments, or that the individual apartment and its appurtenant common interest being transferred by an individual apartment deed and the personalty within such apartment will be released therefrom by partial releases duly recorded.

- B. A Preliminary Report dated May 4, 1972 issued by Security Title Corporation, as submitted to the Commission, provides that the following are encumbrances against title to the aforementioned leasehold property:
1. Reservation in favor of the State of Hawaii of mineral and metallic mines as reserved in Royal Patents numbered 6714 and 4053.
 2. A ten (10) foot Road Setback Line along Poipu Road.
 3. For any 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 Fourth Division.
 4. The terms and provisions of that certain Lease herein referred to.

STATUS OF THE PROJECT: Construction of the project was completed on or about May 31, 1972. An Affidavit was filed in the Circuit Court of the Fifth Circuit on June 9, 1972 concerning the publication of the Notice of Completion of the project.

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 June 8, 1971, and information subsequently filed as of July 14, 1972.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 391 filed with the Commission on June 8, 1971.

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.



(for) DOUGLAS R. SODEVANI, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, County of Kauai
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

July 14, 1972

Registration No. 391