

# 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  
NANI KAI HALE  
Kihei Road  
Kihei, Maui, Hawaii

REGISTRATION NO. 404

### 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 26, 1971

Expires: December 26, 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 the prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED AUGUST 19, 1971 AND INFORMATION SUBSEQUENTLY FILED ON NOVEMBER 15, 1971. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT (CHAPTER 514, HAWAII REVISED STATUTES).

1. Nani Kai Hale is a proposed leasehold condominium project consisting of one (1) reinforced concrete, six (6) story building with forty-six (46) residential apartment units, all of which will be sold by the Developer upon and subject to the terms and provisions of the Master Lease and Apartment Lease Assignments which expire on March 31, 2031. There will be fifty-one (51) parking stalls.
2. The Developer of the project has filed all documents and materials deemed necessary by the Commission for the registration of this proposed condominium project and the issuance of the Preliminary Public Report.
3. Basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of Approved Floor Plans) have not been filed in the Office of the Recording Officer.

4. The Developer has advised the Commission that advertising and promotional matter required to be filed pursuant to the rules and regulations promulgated by the Commission will be submitted prior to public exposure.
5. The Developer has submitted a statement of the estimated costs involved in completing the project and states that an oral commitment has been obtained for both construction financing and long-term mortgage loans to individual qualified purchasers of the apartment units subject to success in obtaining Reservation Agreements.
6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Rules and Regulations promulgated thereunder which relate to Horizontal Property Regimes.
7. This Preliminary Public Report is made a part of the registration of Nani Kai Hale condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers.
8. If the Final Public Report is not issued within one (1) year from November 26, 1971, the date of this Preliminary Public Report, purchasers and prospective purchasers shall be entitled to a refund of all monies without further obligation.

NAME OF PROJECT: NANI KAI HALE

LOCATION: Kihei Road, Kihei, Maui, Hawaii

The site is comprised of 40,033 square feet lying between Kihei Road and the ocean.

TAX MAP KEY: SECOND DIVISION: 3-8-13: parcels 10 and 24.

ZONING: Hotel Medium

DEVELOPER: OCEAN PACIFIC MANAGEMENT, INC., whose business address is 2480 South Kihei Road, Apartment 107, Kihei, Maui, Hawaii 96753. The officers of the corporation are:

Terry L. Phillips, President  
Doris L. Phillips, Vice President  
Robert Morris, Secretary-Treasurer

ATTORNEY REPRESENTING DEVELOPER: Hogan, Rother & Grimes (Murray Estes, of such firm), Suite 320, Dillingham Transportation Building, 735 Bishop Street, Honolulu, Hawaii 96813, Telephone 531-6851.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the project shall consist of one (1) reinforced concrete and hollow tile building containing forty-six (46) apartment units of which forty (40) will be one-bedroom and six (6) will be two-bedroom, but all will have two (2) baths, located on 40,033 square feet of land. The building will be irregularly shaped to allow an ocean view from each apartment unit, will be capped with a flat slab roof and will contain no basement. Fifty-one (51) parking stalls, one (1) office and one (1) apartment will be on the first floor, nine (9) apartments on each of the remaining five (5) floors. Said building will contain one (1) elevator and three (3) stairways. The apartments will be numbered in the manner shown on the Condominium File Plan. Each apartment will be deemed to include all the walls and partitions which are not loadbearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein including refrigerator, range and garbage disposer. Each apartment will have immediate access to the walkway on its floor and the stairways between the upper and ground floors of the building, and the walkways connecting the building to the street entrances and parking

areas of the project. There will be parking stalls for fifty-one (51) automobiles.

Each apartment contains the number of rooms and approximate floor area, including the lanai, according to its respective plan, which are designated "A", "B", "C" and "D" as follows:

1. Thirty (30) type "A" units each contain six (6) rooms including two (2) bathrooms, one (1) bedroom, one (1) lanai, and total floor area of 745 square feet. The enclosed area is measured to the inside of the exterior walls.
2. Ten (10) type "B" units each contain six (6) rooms including two (2) bathrooms, one (1) bedroom, one (1) lanai. Five (5) have total floor area of 735 square feet and five (5) have total floor area of 745 square feet. The enclosed area is measured to the inside of the exterior walls. The difference in size is in the lanai area.
3. Five (5) type "C" units each contain seven (7) rooms including two (2) bathrooms, one (1) lanai and total floor area of 900 square feet. The enclosed area is measured to the inside of the exterior walls.
4. One (1) type "D" unit containing seven (7) rooms including two (2) bathrooms, two (2) bedrooms, two (2) lanais and total floor area of 1,200 square feet. The enclosed area is measured to the inside of the exterior walls.

COMMON ELEMENTS: The common elements will include the limited common elements hereinafter described and all other portions of the land and improvements other than the apartments and they shall specifically include but not be limited to the above-described land and improvements thereon; all foundations, columns, girders, beams, supports, bearing walls, roofs, chases, entries, stairways, lobbies, and walkways of the buildings; all yards, grounds, landscaping, mail boxes, storage rooms and refuse facilities; one automatic electric passenger elevator with elevator housing and appurtenant equipment; all parking areas and driveways; all ducts, electrical equipment, wiring and other central and appurtenant installations including power, light, water, sewer and telephone; the swimming pool and equipment, laundry room, and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the buildings of the project.

LIMITED COMMON ELEMENTS: The proposed Declaration reflects that certain parts of the common elements herein called "limited common elements" are designated and set aside for the exclusive use of certain apartments. Such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows: (a) One parking space shall be assigned to each of the apartments located on floors two (2) through six (6), and two (2) parking stalls to apartment numbered one (1) on the ground floor, upon original conveyance thereof and shall be appurtenant to and for the exclusive use of such apartment; four (4) additional parking stalls shall be for use by service vehicles visitor parking.

INTEREST TO BE CONVEYED TO PURCHASER: Apartment units shall have appurtenant to each the undivided interest in all common elements of the project as follows: All one-bedroom apartment units, types A and B, 5/238; all type C apartment units, 6/238; and the type D apartment unit, 8/238. The common interest, proportionate share in all common profits and expenses of the project and proportionate representation for voting purposes in the Association of Apartment Owners and all other purposes shall be in the aforesaid fraction for each apartment.

USE: The proposed Declaration provides that the owners of the respective apartments shall have the absolute right to lease or rent such apartments for transient purposes, subject to all provisions of the Declaration.

OWNERSHIP OF TITLE: Certificates of Title issued by Security Title Corporation, dated September 17, 1969 and November 5, 1970, respectively, report that title to 13,591 square feet of the land comprising a part of the project site is owned by Terry L. Phillips and Doris L. Phillips, husband and wife, in fee

simple. An Agreement of Sale dated in April 1969, and recorded at the Bureau of Conveyances, State of Hawaii, in Liber 6509, page 356, designates that Terry L. Phillips and Doris L. Phillips, husband and wife, contracted to purchase 26,713 square feet of land from Yil Bok Chur and Uhn Hay Chur, husband and wife. A "Policy of Title Insurance" issued by Title Insurance and Trust Company purports to insure the equity of the purchasers acquired by the terms of said Agreement of Sale. The land described in said Agreement of Sale comprises a part of the project site. All of the land constituting the proposed building site of Nani Kai Hale is contained in the descriptions set forth in the documents referred to in this paragraph.

A subsequent Preliminary Report of Title to the real property comprising the building site (Tax Keys: Maui 3-8-13-10 and 24) issued as of October 18, 1971 discloses the same condition of ownership.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report issued by Security Title Corporation dated October 18, 1971 reports the following encumbrances: (For purpose of reporting the encumbrances in the Preliminary Report the parcel of land designated Tax Map Key No. 3-8-13-10 is herein referred to as "Parcel First." Tax Map Key No. 3-8-13-24 is divided into 2 parcels, herein referred to as "Parcel Second" and "Parcel Third." Parcel Second consists of 9,604 square feet and Parcel Third consists of 3,987 square feet.)

As to Parcels First and Second only:

As to those portions of land bordering on the ocean:

- a) Saving and excepting those portions of the land lying seaward of the line of vegetation.
- b) The effect of Sections 205-31 to 205-37, inclusive, Hawaii Revised Statutes, as now or hereafter amended.

As to Parcel First only:

Agreement of Sale dated April 19, 1969, recorded on May 6, 1969 in the Bureau of Conveyances of the State of Hawaii in Book 6509, page 356, made by and between Yil Bok Chur and Uhn Hay Chur, as Sellers, and Terry L. Phillips and Doris L. Phillips, as Purchasers.

As to Parcel Third only:

The terms and provisions of that certain Agreement dated September 8, 1969, recorded on September 17, 1969 in the Bureau of Conveyances of the State of Hawaii in Book 6685, page 354.

As to Parcels First, Second and Third:

Mortgage dated May 28, 1971, recorded on June 2, 1971 in the Bureau of Conveyances of the State of Hawaii in Book 7576, page 415, made by Terry L. Phillips and Doris L. Phillips, as Mortgagors, to Capital Investors Corporation, as Mortgagee.

For any taxes that may be due and owing and a lien on the parcels of land, reference is hereby made to the Office of the Tax Assessor of the Second Division.

NOTE: The Developer has filed with the Commission a copy of an unrecorded Master Lease dated December 18, 1970 by and between Terry L. Phillips and Doris L. Phillips, as Lessors, and Ocean Pacific Management, Inc., as Lessee. The Master Lease covers the land committed to the Regime for the term of sixty (60) years from April 1, 1971.

PURCHASE MONEY HANDLING: An executed Escrow Agreement, dated February 8, 1971 identifies Security Title Corporation as the Escrow Agent. Upon examination of the Escrow Agreement, it is found to be in consonance with Chapter 514, Hawaii Revised Statutes, and particularly Section 514-35 through Section 514-40.

Among other provisions, the Escrow Agreement provides that Escrow Agent shall refund to Purchaser all of Purchaser's funds, without interest and less Escrow's \$15.00 cancellation fee, if Purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

- (a) Escrow Agent receives a written request from Developer and the interim lender to return to Purchaser the funds of Purchaser held under the Escrow Agreement by Escrow Agent; or,
- (b) If, subsequent to the execution of the Contract of Sale, there is any change in the building plans requiring the approval of a county officer having jurisdiction over the issuance of permits for construction of buildings, unless Purchaser's written approval of acceptance of the specific change is obtained; or,
- (c) If Purchaser enters into a Contract of Sale prior to the time the Final Public Report is issued and the Final Public Report differs in any material respect from this Preliminary Public Report; or,
- (d) If the Final Public Report of the Real Estate Commission is not issued within one year from the date of issuance of this Preliminary Public Report.

NOTE: The Developer has advised the Commission that if sufficient funds to cover all costs of completing the project are not deposited with Escrow Agent by December 31, 1972, and Purchaser has not consented to an extension of time within which to obtain sufficient funds, the Contract of Sale shall be terminated and all monies theretofore paid by buyer shall be refunded without interest or penalty.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Contract of Sale, since the Escrow Agreement prescribes the procedure for receiving and disbursing purchaser's funds.

MANAGEMENT OF PROJECT: The By-Laws which are incorporated in the Declaration provide that the operation of the project shall be conducted for the Association under the direction of its Board of Directors by a responsible corporate managing agent. The Developer has submitted an unexecuted Management Agreement form to the Commission which will be acceptable when executed by a responsible corporate managing agent. It is anticipated that "Ocean Pacific Management, Inc.," a Hawaii corporation and developer of the project, will become the initial managing agent.

STATUS OF PROJECT: A construction contract dated January 2, 1971, has been executed with Phillips Construction Company, Inc., as general contractor. Construction has not started on the project. The Developer has advised the Commission that it proposes to commence construction approximately December 1, 1971 and complete the work of the project within approximately one year from the start of construction.

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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 August 19, 1971, and additional information subsequently filed on November 15, 1971.

This is a Preliminary Horizontal Property Regimes Condominium Public Report which is made a part of Registration No. 404, filed with the Commission on August 19, 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.

  
for DOUGLAS R. SDBETANI, 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

November 26, 1971  
Registration No. 404