

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

LIHUE TOWNHOUSE
Rice Street
Lihue, Kauai

REGISTRATION NO. 530

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: May 24, 1973
Expires: June 24, 1974

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 or prospective Purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED FEBRUARY 16, 1973 AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 23, 1973. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES.

1. LIHUE TOWNHOUSE is a proposed fee simple condominium project with a total of 56 two-bedroom apartments and 8 three-bedroom apartments in one four-story masonry T-shaped building and 70 parking stalls.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Owners and a copy of the Condominium Map) have not yet been filed with the Office of the Recording Officer.
4. No advertising or promotional matter has yet been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The Developer advises the Commission that when construction of the project is commenced it will own the fee simple interest in the land. On completion of conveyance of the units the Developer will retain no residual interest in the fee.
6. 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 the Horizontal Property Regimes.
7. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, May 24, 1974, unless a Final Public Report issues or the Commission, upon review of registration issues an order extending the effective period of this report.

NAME OF PROJECT: LIHUE TOWNHOUSE.

LOCATION: The 70,107 square feet of property to be committed to the regime as a fee simple condominium project is situated on the Northeasterly side of Rice Street between Kalena Drive and Halaka Street, Lihue, County of Kauai, State of Hawaii.

TAX KEY: FOURTH DIVISION 3-6-03:23 and 24.

ZONING: Variance V 71-6 for multi-family.

DEVELOPER: Lihue Townhouse Developers, a registered Hawaii partnership, whose address is P. O. Box 595, Waimea, Kauai, Hawaii. The General Partners are as follows:

GEORGE G. OZAKI	Lihue, Kauai
ROBERT T. OZAKI	Hanapepe, Kauai
YUKIE U. OZAKI	Hanapepe, Kauai
RICHARD K. UEOKA	Hanapepe, Kauai
THOMAS K. AKUTAGAWA	Kapaa, Kauai
MILTON R. OZAKI	Hanapepe, Kauai
MARIAN Y. OZAKI	Hanapepe, Kauai
JOYCE T. OZAKI	Hanapepe, Kauai
CHAD-DONN, INC.	Waimea, Kauai

ATTORNEY REPRESENTING DEVELOPER: Hiroshi Sakai, Suite 602, 810 Richards Street, Honolulu, Hawaii. Telephone 531-4171.

DESCRIPTION: The specimen Declaration of Horizontal Property Regime reflects that the project is to consist of the 70,107 square feet of land located on the Northeasterly side of Rice Street, Lihue, County of Kauai, in one four-story T-shaped apartment building to be constructed in accordance with plans and specifications certified to by Matsunaga, Sako & Associates Architects, Inc. The project will have a swimming pool and recreation area and a parking lot of 70 parking stalls. There are driveways and a driveway in the front of the building located on the land.

DESCRIPTION OF BUILDING: The ground floor contains fourteen (14) two bedroom apartment units and two (2) three bedroom apartment units, hallways, storage, machine, electric and janitor's room, mailboxes and lobby area. The second floor contains fourteen (14) two bedroom units and two (2) three bedroom apartment units, hallways, lobby, storage, electric and janitor's room and roof deck. The third and fourth floors each contains fourteen (14) two bedroom apartment units and two (2) three bedroom apartment units, hallways, lobby, storage, electric and janitor's room. There is on the roof a lobby area and storage room. Each of the floors will be connected to the other floors by one elevator and stairways.

DESCRIPTION OF APARTMENTS: The type of apartments located in the project are as follows:

A. Two-Bedroom Apartments. The two-bedroom apartments consist of 16 typical two-bedroom apartment units of 734 square feet and a lanai of 59 square feet and 40 typical two-bedroom apartment units of 736 square feet and a lanai of 58 square feet. Each two bedroom apartment unit consists of

two bedrooms, a living-dining room, one and one-half bathrooms, closets, kitchen, and a lanai. The ground floor apartments will also have grassed areas as follows:

Apt. 101, 281 square feet; Apt. 102, 302 square feet; Apts. 103, 105, 109 and 111, 401 square feet; Apts. 104, 106, 329 square feet; Apt. 107, 315 square feet; Apt. 108, 173 square feet; Apts. 110, 112, 284 square feet; and Apt. 113, 215 square feet; Apt. 114, 250 square feet.

B. Three-Bedroom Apartments. Each three-bedroom apartment unit consists of 8 typical apartment units of 975 square feet and a lanai of 58 square feet. Each three bedroom apartment unit consists of three bedrooms, living-dining room, two bathrooms, closets, kitchen and a lanai. The ground floor apartments 115 and 116 will include enclosed grassed areas of 224 square feet each.

NUMBER AND LOCATION OF UNITS: The units in the building are as shown on the Condominium Map and are numbered as follows and on the floors designated:

<u>No. of Apts.</u>		<u>Floors</u>
Two Bedrooms	101 - 114 inclusive	Ground
Three Bedrooms	115, 116	Ground
Two Bedrooms	201 - 214 inclusive	Second
Three Bedrooms	215, 216	Second
Two Bedrooms	301 - 314 inclusive	Third
Three Bedrooms	315, 316	Third
Two Bedrooms	401 - 414 inclusive	Fourth
Three Bedrooms	415, 416	Fourth

Each of the ground floor apartment units will have immediate access to the hallways and lobby area to the ground area. Each of the second floor apartment units will have immediate access to the hallways, stairways, lobby area and the elevator. Each of the third floor apartment units on the third floor will have immediate access to the hallways, stairways, lobby area and the elevator. Each of the fourth floor apartment units will have immediate access to the hallways, stairways, lobby area and elevator.

COMMON ELEMENTS: The common elements include:

- a. The land in fee simple described in the Declaration of Horizontal Property Regime.
- b. The foundations, columns, girders, beams, supports, main walls, roofs, hallways, stairways, fire escape, entrances and exits to the building.
- c. Flat roof, lobby areas, roof deck, recreation area and swimming pool.
- d. The mailboxes and lobby areas on all floors.
- e. Machine, electric and janitor's rooms, roof storage room, driveways and unassigned parking stalls.
- f. The central and appurtenant installations for services such as power, light, gas, hot and cold water and like utilities.
- g. The elevator, elevator shaft and well, appurtenant installation and apparatus.
- h. All other parts of the project existing for the common use or necessary to the existence, maintenance and safety of the project.

LIMITED COMMON ELEMENTS: The limited common elements are:

- a. A parking stall set aside with the same number and reserved for the exclusive use of the particular apartment as shown on the Condominium Map.
- b. The storage room on each floor for the use of the apartment owners on the same floor.

INTEREST TO BE CONVEYED TO PURCHASER: The percentage of undivided interest in the common elements appertaining to each unit and parking stall appurtenant thereto is as follows:

- a. Each of the two bedroom apartments in the building shall be a 1.52 percentage interest in the common elements.
- b. Each of the three-bedroom apartments in the building shall be a 1.86 percentage interest in the common elements.
- c. For purposes of percentage interest in the common elements and voting on all matters requiring action by the owners the percentages as provided

above shall govern.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The apartments are intended primarily for residential uses. However, certain commercial and business uses (such as apartment-hotel operation) may govern the use of the apartments, subject to such limitation as may be contained herein or in the By-Laws of the Association and House Rules which may be adopted from time to time governing the use of the apartments. The parking stalls are intended and shall be used primarily for parking purposes subject to such limitations as may be contained herein or in the By-Laws and House Rules which may be adopted from time to time governing the use of the project.

OWNERSHIP OF TITLE: A copy of the title search as of May 15, 1973 issued by Security Title Corporation certifies that the fee simple title to the land is vested in George G. Ozaki, Lihue, Kauai, Robert T. Ozaki, Hanapepe, Kauai and Baker T. Taniguchi, Waimea, Kauai, under Deeds dated August 29, 1970, recorded in the Bureau of Conveyances, State of Hawaii in Book 7171, Page 42 and Book 7171, Page 55 respectively, and under Deed dated April 15, 1972, recorded in the Bureau of Conveyances, State of Hawaii, in Book 8321, Page 45.

ENCUMBRANCES AGAINST TITLE: The Security Title Corporation's title search dated May 15, 1973 notes the following encumbrances against the property:

1. Real Property Taxes that may be due and owing on the land of which reference is hereby made to the office of the Tax Assessor of the Fourth Taxation Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent 4480.
3. Restrictive Covenants contained in that certain Deed dated October 1, 1919, recorded in the Bureau of Conveyances of the State of Hawaii in Book 523, Page 396, to which reference is hereby made.
4. Restrictive Covenant contained in that certain Deed dated March 31, 1924, recorded in said Bureau of Conveyances in Book 734, Page 91, to which reference is hereby made.

NOTE: The Developer has advised the Commission that the Restrictive Covenant contained

in Deeds dated October 1, 1919, recorded in Book 523, Page 396 and dated March 31, 1924, recorded in Book 734, Page 91, state, to-wit: "That no malt, vinous, spirituous or intoxicating liquors of any kind shall ever be exposed for sale or manufactured on the granted premises or any part thereof."

5. Mortgage dated August 25, 1970, recorded on September 14, 1970 in said Bureau of Conveyances in Book 7171, Page 48, made by and between BAKER T. TANIGUCHI, husband of Kazue K. Taniguchi, and GEORGE K. OZAKI, husband of Hatsuyo S. Ozaki, as Mortgagors, to WILLIAM M. MORAGNE and JEAN W. MORAGNE, husband and wife, as Tenants in Common, as Mortgagees, to secure the repayment of the sum of \$123,100.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said Mortgagors therein referred to. (affects Parcel Second only)
6. Mortgage dated August 25, 1970, recorded on September 4, 1970 in said Bureau of Conveyances in Book 7171, Page 60, made by and between BAKER T. TANIGUCHI, husband of Kazue K. Taniguchi, and GEORGE G. OZAKI, husband of Hatsuyo S. Ozaki, as Mortgagors, to WILLIAM M. MORAGNE and JEAN W. MORAGNE, husband and wife, as Tenants in Common, as Mortgagees, to secure the repayment of the sum of \$71,900.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said Mortgagors therein referred to. (affects Parcel First only)

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated May 16, 1973 identified Security Title Corporation, as "Escrow". On examination the specimen Condominium Reservation Agreement, Deposit, Receipt and Sales Contract and executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes. The provisions of the executed Escrow Agreement as filed with the Commission provides that disbursements from the Escrow Fund will be made by Escrow Agent upon the written request of the Developer for the following purposes:

- a. To pay for construction of the building or buildings and other improvements and fixtures in such amounts and at such times and in

proportion to the valuation of the work completed by the contractor as certified by a registered architect or professional engineer in accordance with the Sales Contract and upon bills approved or certified for payment by Seller's mortgagee;

- b. To other persons as required for architectural, engineering, finance, advertising, printing, accounting, escrow fees, selling expenses, taxes, assessments and legal fees, and for other incidental expenses of the project, to the extent approved by Seller's mortgagee;
- c. For the total or partial release of any master mortgage or other lien covering the project and for the removal of any other encumbrances required to be removed in order to place title of the apartments in the required state;
- d. For such title reports and costs of recordation as may be necessary or proper in connection with recordation of deeds, mortgages and other documents required to effect transfer of title under the Sales Contracts;
- e. To seller, or order, forty-six (46) days after the filing of the Affidavit of Publication of Notice of Completion as provided for under Chapter 507, Part II, Hawaii Revised Statutes, provided, however, if a notice of mechanic's or materialmen's lien has been filed against any of the property included in the project, or suit thereon is filed, Escrow shall withhold one hundred and fifty per cent (150%) of the amount claimed thereunder until any lien existing or possible thereunder has been removed.

The executed Escrow Agreement illustrates compliance with the requirements of Section 514-36 through 514-39, Hawaii Revised Statutes.

Purchaser shall be entitled to have a refund of his funds and Escrow Agent shall pay said funds to said purchaser without interest less Escrow Agent's cancellation fee if purchaser shall in writing request refund of his funds and if any one of the following shall have occurred:

- a. Escrow Agent receives a written request from the Developer to return to purchaser the funds of such person then held hereunder by Escrow Agent;

- b. If a purchaser's fund were obtained prior to the issuance of the final public report and there has been a change in the condominium building prints subsequent to the execution of the purchaser's Condominium Reservation Agreement, Deposit, Receipt and Sales Contract requiring the approval of the County of Kauai, officer having jurisdiction over the issuance of permits for construction of buildings unless the purchaser has given written proof accepting the specific change;
- c. If the purchaser's funds were obtained prior to the issuance of the final public report, the request is prior to the time the final public report is issued; and
- d. If the final public report differs in any material respect from the preliminary public report that has been issued unless the purchaser has given written approval or acceptance of the difference; or
- e. The final public report is not issued within one (1) year from the date of the issuance of the preliminary public report. Upon refund of said funds to the purchaser as aforesaid Escrow Agent shall return to the Developer such purchaser's Condominium Reservation Agreement, Deposit, Receipt and Sales Contract and any Apartment Deed theretofore delivered to Escrow Agent and thereafter purchaser shall no longer be obligated thereunder.

The Sales Contract provides that in the event less than 52 apartment units are sold prior to December 31, 1973, Seller may at its option cancel this agreement, in which event Seller will cause Escrow to refund to Buyer all monies paid, without interest, and Seller shall be relieved and released of all further liability hereunder.

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

MANAGEMENT AND OPERATIONS: The Developer has reserved the right to secure the management agent and enter into a three (3) year agreement on behalf of the Association of Owners of

the Lihue Townhouse. The proposed Declaration reflects that the initial managing agent will be Prosser-Childs, Inc.

STATUS OF PROJECT: The Developer advises the Real Estate Commission that the construction of the building has not yet commenced.

The purchaser or prospective purchaser shall be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted February 16, 1973 and information subsequently filed as of May 23, 1973.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 530 filed with the Commission on February 16, 1973.

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



(FOR) DOUGLAS R. SODEHANI, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, COUNTY OF KAUAI
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

May 24, 1973

Registration No. 530