

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

KAPAA SANDS
KAPAA, KAUAI
STATE OF HAWAII

REGISTRATION NO. 559

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: December 13, 1973

Expires: January 13, 1975

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 MAY 14, 1973 AND INFORMATION SUBSEQUENTLY FILED AS LATE AS DECEMBER 13, 1973. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES ACT SET FORTH IN CHAPTER 514, HAWAII REVISED STATUTES.

1. Kapaa Sands is a proposed fee simple condominium project consisting of eight (8) existing buildings, containing twenty-four (24) apartment units and approximately 21 parking spaces as common elements.
2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for registration of a condominium project and issuance of this Final Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners, and a copy of approved Floor Plans) have been filed in the office of the recording officer. The Declaration of Horizontal Property Regime executed on August 27, 1973, together with the By-Laws was filed in the Office of the Assistant Registrar of the Land Court as Document No. 657495, and Condominium Map filed in the said Office as Condominium Map No. 188.
4. No advertising and promotional matter has been submitted pursuant to the rules and regulations of the Commission.
5. The 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 Regime.
6. This Final Public Report automatically expires thirteen (13) months after date of issuance, December 13, 1973, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: KAPAA SANDS

LOCATION: The project consists of 1.249 acres, more or less situated on Papaloa Road, Kapaa, Kauai.

TAX KEY: Fourth Division, 4-3-02-2

ZONING: R-10

DEVELOPER: Setter-Brown, Inc., a Hawaii corporation, whose principal office is at Suite 100, 210 Ward Avenue, Honolulu, Hawaii. The officers of the corporation are: Vi Dolman, President/Secretary and Pat Solomons, Vice President/Treasurer.

ATTORNEY REPRESENTING DEVELOPER: Wooddell, Mukai, Wirtz, Ichiki & Whitfield (Attention: Richard G. MacMillan), Suite 500, Alexander Young Building, Honolulu, Hawaii. Telephone 531-6277.

DESCRIPTION: The Declaration of Horizontal Property Regime reflects that the project consists of eight (8) apartment buildings, designated on the Condominium Map as buildings "A", "B", "C", "D", "E", "F", "G" and "H". Each of the eight (8) buildings has two stories and no basement and is constructed principally of wood walls, roofs, decks, and upper floors, concrete slabs on ground floors, gypsum board, glass and related building materials. Buildings "A", "E", "G" and "H", as shown on said Condominium Map, each contain two apartment

units having a two-story configuration and two exterior stairways serving the second levels of said apartments. Buildings "B", "C", "D" and "F" each contain two apartment units on the first floor and two apartment units on the second floor, with two exterior stairways connecting the first floor and the second floor.

The twenty-four (24) apartments of the Project are located in the buildings of the Project, are of the type and contain the number of rooms as follows:

<u>Building</u>	<u>Apt. No.</u>	<u>Type of Unit</u>	<u>No. of Rooms</u>
A	1	(A)	5
A	2	(B)	5
B	3	(C)	3
B	4	(C)	3
B	5	(D)	3
B	6	(D)	3
C	7	(C)	3
C	8	(C)	3
C	9	(D)	3
C	10	(D)	3
D	11	(C)	3
D	12	(C)	3
D	13	(D)	3
D	14	(D)	3
E	15	(A)	5
E	16	(B)	5
F	17	(C)	3
F	18	(C)	3
F	19	(D)	3
F	20	(D)	3
G	21	(A)	5
G	22	(B)	5
H	23	(A)	5
H	24	(B)	5

Those apartments designated hereinabove as Type (A) or Type (B) are of a two-level configuration and contain a living-dining room, kitchen, two bedrooms and one and one-half bathrooms. Each of said apartments has a net floor area (exclusive of balconies and lanais) of 728 square feet and a gross floor area of 896 square feet. The floor plan of the Type (B) apartment is the reverse of the floor plan of the Type (A) apartment.

Those apartments designated hereinabove as Type (C) or Type (D) are studio apartments on a single level and consist of a multi-purpose room, kitchen and bathroom. Each of said apartments has a net floor area (exclusive of lanais) of 364 square feet and a gross floor area of 448 square feet. The floor plan of Type (D) apartments is the reverse of the floor plan of the Type (C) apartment. Every Type (C) or Type (D) apartment bearing an even number designation is located on the first floor of its building and all of such apartments bearing an odd number designation are located on the second floor.

Each apartment has immediate access to its entries, and to the walkways and the stairways, if any, appurtenant to such apartment, connecting its building to the roads and parking areas of the Project.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surround each apartment, or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being common elements as hereinafter provided. Each apartment shall be deemed to include all of 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 and appliances originally installed therein.

COMMON ELEMENTS. The Declaration identifies the following as common elements: (a) Said land in fee simple; (b) All foundations, floors, girders, beams, supports, main or load-bearing walls, roofs, corridors, chases, entries, stairs, exterior stairways, walkways, entrances and exits of said building; (c) All yards, grounds, landscaping, refuse and like facilities; (d) All drive-ways and parking areas; (e) The swimming pool and other recreational facilities; (f) All ducts, sewer lines, electrical equipment pipes, wiring and other central and appurtenant transmission facilities, installations which serve more than one apartment for services such as power, light, water, gas, air conditioning, refuse, telephone and radio and television signal distribution; (g) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS. Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments, which apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(a) In each of the buildings of the Project, the two exterior stairways leading to the second floor, shall be for the exclusive use of the apartment or apartments served thereby; and

(b) Such of the common elements which are rationally related to a single building of the Project shall be appurtenant to and for the exclusive use of the apartments of such building.

COMMON INTERESTS. The Declaration reflects that each apartment shall have appurtenant thereto an undivided percentage interest in the common elements of the Project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the Project, and for all other purposes including voting, as follows:

<u>Apartment Nos.</u>	<u>Common Interest</u>
1, 2, 15, 16, 21, 22, 23 and 24	.0500
3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19 and 20	.0375

RESTRICTION AS TO USE: The Declaration states that the dwellings shall be used for residential purposes only. The owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration and By-Laws.

Note: The By-Laws of the Association of Apartment Owners of Kapaa Sands provides, in part, that no livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Project, except that one dog, cat or other household pet may be kept by the apartment owners and occupants in their respective apartments, if approved by the Board of Directors.

OWNERSHIP TO TITLE: The Developer in its Notice of Intention reports that ownership of title to the land is vested in the general partners of Coral Reef Investment Associates, a partnership. Developer has filed with the Commission a Preliminary Title Report dated July 19, 1973, prepared by American Abstract & Escrow, Inc., which verifies that fee title to the land is vested in the members of the above-named partnership. Developer has an option to purchase said property, and it is contemplated that Developer will exercise its option and purchase title to the property prior to the first conveyance of any apartment.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report reflects that the land is subject to the following reservations, easements, liens, encumbrances, etc:

(1) MORTGAGE executed by CHARLES EDWARD IVY and DIANA IVY, husband and wife, et al, general partners of "Coral Reef Investment Associates", a California general partnership, in favor of BANK OF HAWAII, a Hawaii corporation, in the amount of \$325,000.00, dated July 30, 1968, filed August 22, 1968 as Land Court Document No. 452989.

ASSIGNMENT OF THE FOREGOING MORTGAGE to BUSINESS MEN'S ASSURANCE COMPANY OF AMERICA, a Missouri corporation, dated May 19, 1969, filed May 21, 1969 as Land Court Document No. 473917.

(2) MORTGAGE executed by CHARLES EDWARD IVY, ET ALS, doing business as CORAL REEF INVESTMENT ASSOCIATES, a Partnership, in favor of HAWAII THRIFT & LOAN, INC., a Hawaii corporation, in the amount of \$100,000.00, dated February 26, 1973, filed February 28, 1973 as Land Court Document No. 620332.

(3) FINANCING STATEMENT executed by CHARLES EDWARD IVY, ET AL., general partners of "Coral Reef Investment Associates", a California general partnership, to BANK OF HAWAII, 111 South King St., Honolulu, Hawaii, covering all furnishings, fixtures, furniture, trucks, equipment, appliances, machinery, apparatus, and other assets, recorded August 22, 1968 in the Bureau of Conveyances of the State of Hawaii in Liber 6190, Page 440.

(4) FINANCING STATEMENT executed by GLENN M. LOVEJOY to KAUAI COMMUNITY FEDERAL CREDIT UNION, Box 647, Lihue, Hawaii, covering personal property at Tax Key: 4-3-2-2 (Kauai) therein described, recorded July 23, 1969 in Liber 6608, Page 235.

(5) DECLARATION OF HORIZONTAL PROPERTY REGIME for Kapaa Sands dated August 27, 1973, together with By-Laws filed in the Office of the Assistant Registrar of the Land Court as Document No. 657,495, and Condominium Map filed in the said Office as Condominium Map No. 188.

(6) MEMORANDUM OF OPTION, dated August 27, 1973, by and between Coral Reef Investment Associates, as Optionor, and Setter-Brown, Inc., as Optionee, filed in said Office as Document No. 657,494.

PURCHASE MONEY HANDLING: An executed Escrow Agreement for Kapaa Sands, dated April 6, 1973, identifies American Abstract & Escrow, Inc., 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 a purchaser shall be entitled to a refund on his funds, without interest, if purchaser requests in writing refund of his funds and any one of the following has occurred:

(a) Developer has requested Escrow in writing to return to purchaser the funds of purchaser then being held by Escrow; or

(b) Purchaser's funds were obtained prior to the issuance of a final public report and there is a change in the condominium building plans subsequent to execution of purchaser's sales contract requiring the approval of a county officer having jurisdiction over the issuance of permits for construction of buildings unless purchaser has given written approval or acceptance of the specific change; or

(c) If a purchaser's funds were obtained prior to the issuance of the preliminary public report, purchaser requests a refund and the request is prior to the time the final public report is issued; or

(d) The final public report differs in any material respect from any preliminary public report unless the purchaser has given written approval or acceptance of the difference; or

(e) If the final public report is not issued within one year from the date of issuance of any preliminary public report.

It is incumbent upon the prospective purchaser to read and understand the Escrow Agreement and the sales agreement before executing the sales agreement. The Escrow Agreement establishes how the proceeds from the sale of units and all sums from any source are placed in trust, as well as the retention, disbursement and refund of said trust funds.

FINANCING OF PURCHASE PRICE: Developer has advised the Commission that purchaser's funds will be used to acquire the land and improvements of the project from the present fee owner thereof.

MANAGEMENT AND OPERATION: The By-Laws of the Association of Apartment Owners provide that the Board of Directors of Kapaa Sands shall employ a responsible Hawaii corporation as Managing Agent to manage and control the project subject at all times to direction of the Board with all administrative functions at such compensation as the Board may establish, subject to prior approval of every such employment contract by a majority of apartment owners and the fee simple land owner. The Declaration and Management Agreement submitted by the Developer reflects that the Managing Agent for the first one year of the project shall be Aaron M. Chaney, Inc., 841 Bishop Street, Honolulu, Hawaii.

STATUS OF PROJECT. The Developer has advised the Real Estate Commission that the Project was completed on or about May, 1969, and has been used since that time as a hotel.

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 May 14, 1973, and additional information subsequently filed as late as December 13, 1973.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 559 filed with the Commission May 14, 1973.

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.


(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

December 13, 1973
Registration No. 559