

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**

PALI KE KUA - INCREMENT III
Princeville, Kauai, Hawaii

REGISTRATION NO. 607

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: January 14, 1975
Expires: February 14, 1976

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 15, 1973 AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF JANUARY 10, 1975. THE DEVELOPER IN NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL AND SUBMITTING ADDITIONAL INFORMATION, 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. 607, dated October 16, 1973, the Developer has forwarded additional information reflecting material changes which have been made in the documents and plans for the project.

3. PALI KE KUA - INCREMENT III is a leasehold condominium project consisting of five (5) buildings without basements; Buildings "9" and "11" each contains three stories and ten (10) apartments; Building "10" contains two stories and two (2) apartments; and Buildings "12" and "13" each contains two stories and six (6) apartments. There are a total of thirty-four (34) apartments and thirty-six (36) parking spaces.

This Final Public Report is made a part of the registration on PALI KE KUA - INCREMENT III 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.

4. 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 recorded in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime, executed December 31, 1974, with By-Laws attached, was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 10356, Page 266 on January 2, 1975.

The approved Floor Plans showing the layout, location, apartment numbers, etc., have been designated Condominium File Plan No. 395.

5. Advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.

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 Horizontal Property Regimes.

7. This Final Public Report expires thirteen (13) months from the date of issuance, January 14, 1975, unless a supplementary report is published or the Commission upon review of the registration, issues an order extending the effective period of this report.

8. PALI KE KUA - INCREMENT III is a leasehold condominium project and the purchaser will secure a Condominium Conveyance Document, being a combined Apartment Deed (conveying an apartment together with an appurtenant common interest in the common elements of the buildings) and Ground Lease (demising an undivided percentage interest in the lands of the project).

The information in the topical headings of the Preliminary Public Report of October 16, 1973, with the exception of DEVELOPER, DESCRIPTION, INTEREST TO BE CONVEYED TO PURCHASERS, ENCUMBRANCES AGAINST TITLE and STATUS OF PROJECT, has not been disturbed.

DEVELOPER: The address and telephone number of The McCormack Land Company, Ltd., has been changed to 20th Floor Davies Pacific Center, Honolulu, Hawaii, telephone number: 524-2600.

DESCRIPTION: The Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a leasehold condominium project consisting of five (5) buildings without basements; Buildings "9" and "11" each contains three (3) stories and ten (10) apartments; Building "10" contains two (2) stories and two (2) apartments; and Buildings "12" and "13" each contains two (2) stories and six (6) apartments.

Apartment Nos. 133, 135, 136 and 138 are located in the first floor of Building "9"; Apartment Nos. 233, 234, 235, 236, 237 and 238 are located in the second and third floors of Building "9", the two floors of each of these apartments being connected by an internal stairway.

Apartment Nos. 139 and 140 are located in the first and second floors of Building "10", the two floors of each of these apartments being connected by an internal stairway.

Apartment Nos. 141, 143, 144 and 146 are located in the first floor of Building "11"; Apartment Nos. 241, 242, 243, 244, 245 and 246 are located in the second and third floors of Building "11", the two floors of each of these apartments being connected by an internal stairway.

Apartment Nos. 5, 6, 7, 8, 9 and 10 are located in the first and second floors of Building "12", the two floors of each of these apartments being connected by an internal stairway.

Apartment Nos. 11, 12, 13, 14, 15 and 16 are located in the first and second floors of Building "13", the two floors of each of these apartments being connected by an internal stairway.

The apartments are constructed according to four (4) different floor plans, designated "A", "B", "C" and "D", respectively. A description of each of said floor plans, designating the layout, number of rooms and approximate area thereof is as follows:

1. TYPE "A": Four (4) apartments, being Apartment Nos. 133, 138, 141 and 146, each consists of seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a living room, a dining room, a kitchen and two (2) lanais; all rooms and the lanais for each apartment are located on the first floors of their respective buildings; each of these apartments contains a floor area of approximately 1,360 square feet, including the two (2) lanais of approximately 106 square feet each.

2. TYPE "B": Four (4) apartments, being Apartment Nos. 135, 136, 143 and 144, each consists of six and one-half (6-1/2) rooms, including two (2) bedrooms, a bathroom, a half bathroom, a living room, a combined dining-family room, a kitchen and two (2) lanais; all rooms and the lanais for each apartment are located on the first floors of their respective buildings; each of these apartments contains a floor area of approximately 1,252 square feet, including the lanais of approximately 109 square feet and approximately 43 square feet.

3. TYPE "C": Ten (10) apartments, being Apartment Nos. 5, 10, 11, 16, 139, 140, 233, 238, 241 and 246, each consists of six and one-half (6-1/2) rooms; Apartment Nos. 5, 10, 11, 16, 139 and 140 each consists of a bedroom, a bathroom, a living room, a dining room, a kitchen and a lanai located on the first floors of their respective buildings, and a loft and a half bathroom located on the second floors of their respective buildings; Apartment Nos. 233, 238, 241 and 246 each consists of a bedroom, a bathroom, a living room, a dining room, a kitchen and a lanai located on the second floors of their respective buildings, and a loft and a half bathroom located on the third floors of their respective buildings; each of these apartments contains a floor area of approximately 1,099 square feet, including the lanai of approximately 106 square feet.

4. TYPE "D": Sixteen (16) apartments, being Apartment Nos. 6, 7, 8, 9, 12, 13, 14, 15, 234, 235, 236, 237, 242, 243, 244 and 245, each consists of seven (7) rooms; Apartment Nos. 6, 7, 8, 9, 12, 13, 14 and 15 each consists of a bedroom, a bathroom, a living room, a dining room, a kitchen and a lanai located on the first floors of their respective buildings, and a bedroom and bathroom located on the second floors of their respective buildings; Apartment Nos. 234, 235, 236, 237, 242, 243, 244 and 245 each consists of a bedroom, a bathroom, a living room, a dining room, a kitchen and a lanai located on the second floors of their respective buildings, and a bedroom and a bathroom located on the third floors of their respective buildings; each of these apartments contains a floor area of approximately 1,241 square feet, including the lanai of approximately 106 square feet.

NOTE: IN ACCORDANCE WITH LOCAL PRACTICE, THE APPROXIMATE GROSS FLOOR AREA OF EACH APARTMENT AS SET FORTH ABOVE INCLUDES ALL OF THE WALLS AND PARTITIONS WITHIN ITS PERIMETER WALLS, THE ENTIRETY OF ITS PERIMETER NON-PARTY WALLS AND THE INTERIOR HALF OF ITS PERIMETER PARTY WALLS, WHETHER LOAD BEARING OR NON-LOAD BEARING.

ENCUMBRANCES AGAINST TITLE: A Preliminary Report dated December 16, 1974 issued by Title Guaranty of Hawaii, Incorporated, and other documents, as submitted to the Commission, provide that the following are encumbrances against title to the property.

1. Declaration of Restrictions, Covenants and Conditions by Eagle County Development Corporation, dated March 1, 1971, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 7444, Page 93, as amended by instrument dated July 6, 1971, recorded in Liber 7663, Page 264.

NOTE: The Declaration provides that all apartment owners and any other persons or entities having a leasehold interest in any apartment, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation, are subject to, bound by, and shall comply strictly with the provisions of said Declaration of Restrictions, Covenants and Conditions, which provides that such apartment owners and others shall be members of the Princeville at Hanalei Community Association.

2. Declaration of restrictive covenants by Eagle County Development Corporation dated March 1, 1972, recorded in Liber 8192, Page 262.

3. Water and Sanitation Assessment and Lien Agreement by and between Kauai County Public Improvement Corporation and Eagle County Development Corporation dated April 7, 1971, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 7486, Page 292, as amended and supplemented.

NOTE: The Developer has advised that the said Assessment and Lien was amended by instrument dated November 13, 1972, recorded as aforesaid in Liber 8743, at Page 1, to provide that the balance of the allocated assessment charge and lien against the real property comprising the land of the project under the said Assessment and Lien be converted upon the filing of the Declaration for the project to individual liens on each apartment and its appurtenant common interest, each securing a prorated amount of the unpaid balance of the said assessment; the responsibility of paying each of the said prorated amounts will be that of the respective individual owners of each of the apartments. The Developer has advised that it estimates that the maximum amount of such individual lien for each apartment will be \$2,048.15.

4. Location of the seaward boundary of the above described property and shoreline setbacks as affected by the law of the State of Hawaii.

5. Exception of Title to that portion of the property lying below the wash of the waves, usually evidenced by the edge of vegetation or by the line of debris left by the wash of such waves of the sea.

6. Easement "S-1" (10 feet wide) for sanitary sewer purposes, as shown on said File Plan No. 1252, which easement

was granted to Kauai County Public Improvement Corporation by instrument dated March 16, 1972, recorded as aforesaid in Liber 8192, Page 284.

7. The following reservation in the Princeville Corporation, a Colorado corporation, its successors and assigns, contained in that certain Deed dated June 22, 1973, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9252, Page 267: Right to grant roadway easements over and across any and all roadway lots shown on said File Plan Nos. 1179 and 1197, to the purchaser, purchasers, lessee, lessees, owner or owners of each of the lots within Princeville at Hanalei and to any purchaser, purchasers, lessee, lessees, owner or owners of lots hereinafter created within Princeville at Hanalei.

8. First Mortgage and Financing Statement dated June 22, 1973, to secure an indebtedness of \$2,900,000.00, recorded as aforesaid in Liber 9252, Page 283.

Mortgagor: Developer.
Mortgagee: Realty Income Trust, a Massachusetts business trust.

9. Financing Statement given by Developer, as Debtor, to Realty Income Trust, a Massachusetts business trust, as Secured Party, recorded as aforesaid in Liber 9298, Page 199.

10. Mortgage dated June 22, 1973, to secure an indebtedness of \$151,177.95, recorded as aforesaid in Liber 9252, Page 273.

Mortgagor: Developer.
Mortgagee: Princeville Corporation, a Colorado corporation.

11. Unrecorded contract of sale dated June 22, 1973, by and between Developer, as Seller, and Realty Income Trust, a Massachusetts business trust, as Purchaser.

12. 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.

NOTE: The Developer advises it will grant to Kauai Electric Division of Citizens Utilities Company and Hawaiian Telephone Company easements across certain portions of the lands of the project.

INTEREST TO BE CONVEYED TO PURCHASERS: Documents filed with the Real Estate Commission indicate that the purchaser will secure a Condominium Conveyance Document, conveying an apartment and an undivided 1/34th fractional interest (a 2.941+ percentage interest) in the common elements of the buildings of the project and demising an undivided 1/34th fractional interest (a 2.941+ percentage interest) in the lands of the project. This same percentage interest for each apartment

shall be used in determining each purchaser's proportionate share of all common profits and expenses of the project and shall be used for all other purposes including determining the proportionate representation for voting purposes in the Association of Apartment Owners of the project.

NOTE: The specimen sales agreement states that in the event less than twenty-six (26) apartment units are sold prior to September 1, 1975, Seller may at its option cancel the contract and refund all monies to buyers, without interest.

NOTE: The Declaration provides that the Developer shall have the right at its sole option to amend the project, by way of merger, at any time up to, but not later than December 31, 1976, by the addition to the project of the thirty-six (36) apartments and the common elements of the PALI KE KUA Horizontal Property Regime created by and described in Declaration of Horizontal Property Regime dated February 7, 1973 recorded in the Bureau of Conveyances of the State of Hawaii in Liber 8923, Page 238, as amended, and as shown on the plans thereof recorded as aforesaid as Condominium File Plan No. 261, and by the construction and addition to the project of up to another eighty-one (81) additional apartments, together with such supporting and servicing common elements which the Developer determines in its sole discretion are beneficial to the project, on up to an additional approximate 10.237 acres of adjoining land; such additions may be added in three increments as follows:

(a) Increment I. The thirty-six (36) apartments and common elements of PALI KE KUA described above, together with a beach cabana as an additional common element thereof;

(b) Increment II. The twenty-nine (29) apartments (including a commercial apartment), and the common elements of the PALI KE KUA - INCREMENT II Horizontal Property Regime created by and described in Declaration of Horizontal Property Regime dated April 26, 1974, recorded as aforesaid in Liber 9915, Page 65, as amended, and as shown on the plans thereof recorded as aforesaid as Condominium File Plan No. 356, as amended, on approximately 5.571 acres of land, and a beach cabana as an additional common element to PALI KE KUA, described above (first increment) on the lands thereof.

(c) Increment IV. Approximately fifty-two (52) apartments on approximately 4.666 acres of land.

Merger shall take effect with respect to a particular additional increment upon the happening of all of the following conditions with respect thereto: (a) Recordation in the Bureau of Conveyances of the State of Hawaii by the Developer of a Declaration of Horizontal Property Regime, By-Laws and Condominium File Plan covering the additional increment; and (b) recordation in the Bureau of Conveyances of the State of Hawaii by the Developer of a "Certificate of Merger", which certificate shall contain:

(i) A certification by a Hawaii registered architect or professional engineer that all of the apartments of the additional increment are substantially completed;

(ii) The common interest of each apartment of the project after completion of the subject merger; and

(iii) A revised plot plan showing the location of the buildings of the project after completion of the subject merger.

Each apartment of the merged increments shall each have appurtenant thereto an approximately equal undivided percentage interest in the common elements of the merged increments. The approximate common interest of each apartment after each proposed merger of additional increments shall be as follows:

Increment I: A 1/70th fractional interest
(a 1.4285+ percentage interest)

Increment II: A 1/99th fractional interest
(a 1.0101+ percentage interest)

Increment IV: A 1/151st fractional interest
(a .6622+ percentage interest)

Each of the merged increments shall be treated as part of a single project developed as a whole from the beginning, and there shall be only one Association of Apartment Owners and one Board, and the Declarations of Horizontal Property Regime and By-Laws applicable to each merged increment shall be construed as one document applicable to the entire project constituting the merged increments except to the extent expressly otherwise provided for therein. The Developer shall for all purposes be deemed the "apartment owner" as to such additional apartments. In connection with, and only to the extent necessary for the merger of the apartments and common elements of the first increment (PALI KE KUA), as aforesaid, and for the creation of such additional apartments and common elements of Increments II and IV, as aforesaid, the Developer shall have the right to remove, amend or add common elements; to remove, amend or add parking spaces; to enter upon the project premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing said additional apartments and common elements; to connect the said additional apartments and common elements to utilities of the project, and to sell or designate lessees of the said additional apartments.

NOTE: The Declaration provides that the Developer shall have the right to grant roadway easements over and across any and all roadways shown on the Condominium File Plan of the project to any purchaser, purchasers, lessee, lessees, owner or owners of the additional apartments hereafter created, or proposed to be merged with the project, pursuant to the aforementioned provisions of the Declaration. The Declaration also provides

that the Developer shall have the right to grant easements over, across and through the lands of the project, to and from any beach area located on or adjacent to the said lands, such easements to run in favor of the same entities, provided, however, such easements to any beach area shall not be located through or within any existing structures of the project and shall not disturb unnecessarily the normal enjoyment and use of the lands and improvements of the project.

NOTE: In addition, the Declaration provides that the Developer shall have the right to grant the following easements in favor of any purchaser, purchasers, lessee, lessees, owner or owners from time to time of Lot 6, as shown on File Plan No. 1197: (a) an easement across and through the lands of the project to and from any beach area located on or adjacent to the said lands, provided, however, said easement shall not be wider than ten (10) feet and shall be subject to being originally located by the Developer, and provided, further, that said easement shall not be located through or within any existing structures on the project and shall not disturb unnecessarily the normal enjoyment and use of the lands or improvements of the project; (b) a right, in the nature of an easement, to use all of the common elements of the project, including the common elements of other increments merged with the project, excluding, however, such common elements as shall be located within any structures of the project or said other increments to the same extent and subject to the same limitations as are imposed upon an apartment of the project as originally constituted or as hereafter merged; provided, however, the said entities shall pay to the Association of Apartment Owners of the project, as originally constituted or hereafter merged, an equitable percentage of the cost of the maintenance of such common elements, such percentage being equal to the square footage of said Lot 6 divided by the sum of the square footage of the lands of the said project, as herein constituted or hereafter merged, and the square footage of said Lot 6.

NOTE: Developer advises that the following notice contained in the Commission's Preliminary Public Report on Registration No. 607, dated October 16, 1973, is no longer correct, and therefore such notice is deleted therefrom:

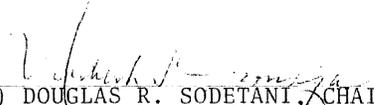
"The Developer advises that it is not offering to provide services relating to the sale or rental of apartments of the project and that no representation or reference to that effect has been made or will be made by or on behalf of the Developer. Rental of the apartments with the provision of management services in connection therewith is and shall be the sole responsibility of the purchaser."

STATUS OF PROJECT: The Developer advises that it estimates that construction of the project will be completed on January 31, 1975.

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 15, 1973, and information subsequently filed as of January 10, 1975.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 607 filed with the Commission on August 15, 1973.

This 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

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FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 607

JANUARY 14, 1975