

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

**PRELIMINARY
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 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: October 16, 1973
Expires: November 16, 1974

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 FILED AUGUST 15, 1973. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. PALI KE KUA-INCREMENT III is a proposed leasehold condominium project consisting of nine (9) buildings without basements; Buildings "9" and "11" each contain three stories and ten (10) apartments; and Buildings "10", "12", "13", "14", "15", "16" and "17" each contain two (2) stories and two (2) apartments. There are a total of thirty-four (34) apartments and thirty-six (36) parking spaces.

2. Materials. The principal materials used in the construction of the building are wood, concrete, aluminum and glass.

3. 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 this Preliminary Public Report.

4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of the approved Floor Plans) have not yet been filed in the Bureau of Conveyances of the State of Hawaii.

5. No advertising or promotional matter has been filed pursuant to the rules and regulations promulgated by the Commission.

6. Pali Ke Kua-Increment III is a leasehold condominium project and the purchaser will secure an apartment lease demising an apartment together with the appurtenant common interest.

7. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Horizontal Property Act, Chapter 514 of the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

8. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, unless a Final Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

9. This Preliminary Public Report is made a part of registration on Pali Ke Kua-Increment III 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. Securing a signed copy of the Receipt for the Preliminary Horizontal Property Regime Public Report from each purchaser is also the responsibility of the Developer.

NAME OF PROJECT: PALI KE KUA-INCREMENT III

LOCATION: Princeville, Kauai, Hawaii

TAX MAP KEY: Fourth Division: 5-4-12-8

ZONING: R-10 (Resort)

DEVELOPER: Inter-Mack, a joint venture consisting of The McCormack Land Company, Ltd., a Hawaii corporation, Suite 1212, Davies Pacific Center, Honolulu, Hawaii Phone 537-3311, whose officers are: Michael T. McCormack, President, and Rex W. Sorenson, Vice President-Secretary-Treasurer; and Inter-Island Builders and Developers, Ltd., a Hawaii corporation, 100 Hanapepe Loop, Honolulu, Hawaii 96821, Phone 395-2355, whose officers are: David C. Anderson, President-Treasurer, and Jeanne A. Anderson, Vice President-Secretary.

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

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a leasehold condominium project consisting of nine (9) buildings without basements; Buildings "9" and "11" each contain three stories and ten (10) apartments; and Buildings "10", "12", "13", "14", "15", "16" and "17" each contain two (2) stories and two (2) 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 and 6 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. 7 and 8 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.

Apartment Nos. 9 and 10 are located in the first and second floors of Building "14", the two floors of each of these apartments being connected by an internal stairway.

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

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

Apartment Nos. 15 and 16 are located in the first and second floors of Building "17", 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 Nos. 133, 138, 141 and 146, each consist 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 1,264 square feet, including the two (2) lanais of approximately 104 square feet each.

2. Type "B" - Four (4) apartments, being Nos. 135, 136, 143 and 144, each consist 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 1,129 square feet, including the lanais of approximately 104 square feet and approximately 46 square feet.

3. Type "C" - Eighteen (18) apartments, being Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 139, 140, 233, 238, 241 and 246, each consist of six and one-half (6 1/2) rooms; apartment Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 139 and 140 each consist 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 consist 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 1,010 square feet, including the lanai of approximately 104 square feet.

4. Type "D" - Eight (8) apartments, being Nos. 234, 235, 236, 237, 242, 243, 244 and 245, each consist of seven (7) rooms, including 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 1,147 square feet, including the lanai of approximately 104 square feet.

Each apartment has immediate access to the grounds of the project or to a walkway which leads to a stairway, or to a stairway, each stairway leading to the grounds of the project.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each apartment, or any pipes, wires, conduits, or other utilities or service lines running through such apartments which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, the inner decorated or finished surfaces of all walls, floors and ceilings, doors and door frames, windows and window frames, the lanai air space, and all fixtures originally installed therein.

COMMON ELEMENTS: One freehold estate is designated in all of the remaining portions of the project, herein called "common elements", including specifically but not limited to:

1. The land in fee simple;
2. All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, chases, entries, stairways, walkways, entrances and exits of said buildings;
3. All yards, grounds and landscaping;
4. All parking areas;
5. All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any;
6. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements herein called the "limited common elements", are designated and set aside for the exclusive use of certain apartments, and such apartments having appurtenant thereto easements for the use of such limited common elements as follows:

The stairways and adjacent walkways leading to the grounds of the project shall be appurtenant to and for the exclusive use of the apartments served by them.

INTEREST TO BE CONVEYED TO PURCHASERS: The Declaration states that the purchaser will secure an apartment lease demising an apartment together with an undivided 1/34th fractional interest (a 2.941+ percentage interest) in all the common elements 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 said 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, including, without limiting the generality of the foregoing, a beach cabana, and a paddle tennis court, as common elements, and 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 and a paddle tennis court as additional common elements thereof; (b) Increment II. Approximately twenty-nine (29) apartments (including a proposed commercial apartment), and a swimming pool, and a tennis court as common elements, and an administration building, which may include the said commercial apartment, the manager's office, the manager's quarters and a lobby, all except the said proposed commercial apartment being additional common elements, on approximately 5.571 acres of land, and a beach cabana and a paddle tennis court as additional common elements to PALI KE KUA, described above (first increment) on the lands thereof.

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 Plans 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 proposed 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 proposed Declaration. The proposed 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 proposed 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.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and personal guests. The apartments may also be used for hotel or transient purposes. The apartments may not be used for any other purpose unless consent of the Board of Directors is secured. The owners of the respective apartments shall have the absolute right to lease the same subject to the limitations, restrictions, covenants and conditions of the Declaration.

OWNERSHIP OF TITLE: The Developer in its Notice of Intention represents that it is the owner of the fee simple title to the property committed to the project, said property having been conveyed to the Developer by Princeville Corporation, a Colorado corporation, by Deed dated June 22, 1973, and recorded in the Bureau of Conveyances of the State of Hawaii, in Liber 9252, at Page 267. The Developer will issue individual apartment leases directly to the buyers.

ENCUMBRANCES AGAINST TITLE: A Preliminary Report dated July 18, 1973 issued by Long & Melone, Ltd., 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.

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. 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.

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

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

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

10. 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.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated June 14, 1973, between Escrow Hawaii, Ltd., as Escrow, and Developer has been filed with the Commission. On examination, the executed Escrow Agreement filed with the Commission is found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly Sections 514-36 through 514-40, H.R.S. Among other provisions, the executed Escrow Agreement states that a purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said purchaser, without interest, and less Escrow's \$20.00 cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

1. Escrow receives a written request from Developer to return to purchaser the funds of such purchaser then held under the Escrow Agreement by Escrow; or

2. If a purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the condominium building plans, subsequent to the execution of purchaser's sales contract, requiring the approval of a County officer having jurisdiction over the issuance of permits for construction of building, unless the purchaser has given written approval or acceptance of the specific change; or

3. If a purchaser's funds were obtained prior to the issuance of a Final Public Report and the request is prior to the time the Final Public Report is issued; or

4. If the Final Public Report differs in any material respect from the Preliminary Public Report, unless the purchaser has given written approval or acceptance of the difference; or

5. If the Final Public Report is not issued within one year of the date of issuance of the Preliminary Public Report.

The specimen reservation agreement states that in the event less than 26 apartment units are sold prior to September 1, 1974, Seller may at its option cancel this contract and refund all moneys to Buyers, without interest.

It is incumbent of the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the reservation agreement since the Escrow Agreement prescribes the procedure for receiving and disbursing the

purchaser's funds. The specimen reservation agreement specifically provides that the purchaser approve said Escrow Agreement and assume the benefits and obligations therein provided. Purchasers and prospective purchaser are advised to read with care the provisions of the reservation agreement.

MANAGEMENT OF THE PROJECT: The By-Laws which are incorporated in the Declaration provide that the operation of the project shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible managing agent. The Developer in its Notice of Intention indicates that it has selected Paradise Management Corporation, 2222 Kalakaua Avenue, Suite 1006, Honolulu, Hawaii 96815, as initial managing agent; the reservation agreement to be signed by purchasers provides that Developer may appoint the initial managing agent for the project.

NOTE: 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 on the project will begin on December 1, 1973, and that it estimates construction of project will be completed on December 1, 1974.

The purchaser and 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.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 607 filed with the Commission 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 yellow.


(For) DOUGLAS R. SODEK, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

REGISTRATION NO. 607

October 16, 1973