

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

POIPU MAKAI
Pee Road
Poipu, Kauai, Hawaii

REGISTRATION NO. 815

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 31, 1975
Expires: November 30, 1976

SPECIAL ATTENTION

A comprehensive reading by the prospective buyer 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 OCTOBER 15, 1975 AND INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 30, 1975. THE OWNER, 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. The Poipu Makai is a proposed fee simple condominium project consisting of 15 residential apartment units in a 3-story building. There will be 23 parking stalls (including guest parking stalls) available. Buyers will receive an apartment deed granting a fee simple interest directly from the owner.
2. The Developer of the project has filed all documents and material deemed necessary by the Commission for the registration of this proposed condominium project and the issuance of the Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, Bylaws of the Association of Apartment Owners and a copy of Approved Floor Plans) have not yet 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 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.
6. This Preliminary Public Report is made a part of the registration of POIPU MAKAI 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 and securing a signed copy of the receipt for the Preliminary Public Report from each purchaser.
7. This preliminary Public Report automatically expires thirteen (13) months after date of issuance, unless a Final or Supplementary Public Report issues or the Commission upon review of registration issues an order extending the effective period of this report.

NAME OF PROJECT: THE POIPU MAKAI

LOCATION: The site, comprising approximately 33,036 square feet, is located off Pee Road at Weliweli, Kona, Kauai, Hawaii.

TAX MAP KEY: 2-8-020-04 (Fourth Division)

ZONING: R-20

DEVELOPER: Poipu Makai, a Hawaii limited partnership, whose principal place of business is 3122 Kuhio Highway, Lihue, Kauai, Hawaii. The name and address of the General Partner is:

James C. Blackwell, Jr.
3122 Kuhio Highway
Lihue, Kauai, Hawaii

ATTORNEY REPRESENTING OWNER: Case, Stack, Kay, Clause & Lynch (Gary L. Wixom, Esq.), 1100 First Hawaiian Bank Building, Honolulu, Hawaii 96813, Telephone: 536-7261

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a fee simple project consisting of two principal structures, an apartment building and a parking structure.

The apartment building is a three-story, rectangular structure, each floor of which contains five apartments. The apartment building is constructed primarily of reinforced concrete, plaster on concrete blocks, wood, glass and related building materials.

Adjacent to the apartment building is a two-level structure containing parking stalls for 23 automobiles. A driveway from Pee Road leads to the entrance on the easterly end of the structure. A ramp provides access to the second level of the parking structure. The lower parking level contains stalls for 12 automobiles, a room for sewage treatment equipment, a room for tools and miscellaneous storage, a bin-storage room, a room for bicycle racks and electrical meters and appurtenances, and two entrance stairways. The upper parking level contains stalls for 11 automobiles, decorative trellises over portions of the parking area, a planter area, and a stairway.

The principal materials used in construction of the parking structure are reinforced concrete and wood.

DESCRIPTION OF APARTMENTS:

a. There are fifteen apartments, each of which is designated by a letter of the alphabet and a number. The letter designates the location of the apartment on the floor. The letter "A" refers to apartments located at the north end of each floor. The letters B, C, D and E designate the remaining apartments along each floor when proceeding in the southerly direction. The letter "E" designates the apartments at the south end of the building. The number 1, 2 or 3 indicates the floor on which the apartment is located.

b. The apartments on each floor designated by the letters "A" and "E" are identical except that the floor plan of one is the mirror image of the other. The apartments on each floor designated by letters "B", "C" and "D" are identical except that "C" is the mirror image of "B" and "D". This relationship is more clearly shown by the Condominium File Plan. Each apartment on the first and second floors contains an entry, a kitchen, a living-dining area, 2 bathrooms and 2 bedrooms. The apartments on the third floor have the same rooms as on the first and second floor and an additional bedroom-study suite located above the main floor of the apartment. Access to each apartment from the common elements is via a stairway and lanai entry. Each apartment also has a view lanai adjacent to the westerly (makai) side of the apartment, the lanais being limited common elements as hereinbelow mentioned. View lanais on the ground floor extend six feet beyond the vertical plane defined by the outer boundary of the lanais on the second and third floors. Only a portion of this area will be surfaced.

The apartment number, approximate area, view lanai area, and percentage interest in the common elements appertaining to each apartment is as follows:

<u>Apartment Number</u>	<u>Location (Floor)</u>	<u>Floor Area (s.f.)</u>	<u>View Lanai Area (s.f.)</u>	<u>Common Interest</u>
A-1	First	1,083	310	1/15
B-1	First	1,023	340	1/15
C-1	First	1,023	340	1/15
D-1	First	1,023	340	1/15
E-1	First	1,083	310	1/15
A-2	Second	1,083	160	1/15
B-2	Second	1,023	180	1/15
C-2	Second	1,023	180	1/15
D-2	Second	1,023	180	1/15
E-2	Second	1,083	160	1/15
A-3	Third	1,455	160	1/15
B-3	Third	1,365	180	1/15
C-3	Third	1,365	180	1/15
D-3	Third	1,365	180	1/15
E-3	Third	1,455	160	1/15

Each apartment also contains an electric range with oven below, a 30-gallon water heater, a dishwasher, washer and dryer, refrigerator, garbage disposal and trash compactor.

COMMON ELEMENTS: The common elements shall include:

- a. All the land in fee simple;
- b. All foundations, columns, girders, beams floor slabs, supports, unfinished perimeter and load bearing walls (except for the inner decorated surface within each unit), roofs, stairways, walkways, entrances and exits of the structure;
- c. All yards, grounds, planters, landscaping, refuse facilities, driveways, parking structure area, the swimming pool, outdoor bar and shower and other recreational facilities and appurtenances;

d. All storage areas, enclosures, equipment rooms, mailboxes and restrooms;

e. All ducts, pipes, wiring, electrical, gas and sewage treatment equipment and other central and appurtenant transmission facilities and installations for power, light, gas, water, ventilation, which serve more than one apartment for services such as electrical power, gas, water, sewer, telephone and television signal distribution.

f. All other apparatus and installations for 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: Limited Common Elements include the following:

a. 15 parking stalls which shall be appurtenant to and for exclusive use of the respective apartment units conveyed with the apartment.

b. 8 parking stalls which shall be appurtenant to all the residential units for use as guest parking subject to rules established by the Board of Directors.

c. Each apartment shall have the exclusive right to use the entrance lanai and the view lanai adjacent to the westerly side of each apartment. The boundaries of the view lanais on the first floor extend out six feet beyond the vertical plane defined by the outer boundaries of the lanais on the second and third floors. Apartments C-1, D-1, C-2, D-2, C-3 and D-3 also have a closet within the entry lanai which is also a limited common element.

All costs of maintenance, repair, replacement, additions, and improvements of lanais shall be borne entirely by the apartment to which they are appurtenant, and the owner of the apartment shall have the obligation to maintain, repair and keep the lanai areas in good and sanitary condition and repair.

d. Each apartment shall have appurtenant to it the exclusive right to use one storage bin (approximately 80 sq. ft.) located in the storage room on the lower level of the parking structure.

e. Each apartment shall have appurtenant to it the exclusive right to use a mail box in the mail facilities located as shown on the Condominium File Plan.

INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration reflects that the common elements, referred to above, established and to be conveyed with the respective apartments, shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amendment to the proposed Declaration which shall be duly recorded, or except as otherwise set forth in the proposed Declaration, that the common interest and easements shall not be separated from the apartment to which they appertain and shall be deemed to be conveyed, leased or encumbered with such apartment even though

such interest or easements are not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by the Horizontal Property Act set forth in Chapter 514 of the Hawaii Revised Statutes as amended. The proportionate shares of the separate owners of the respective apartments in the profits and common expenses in the common areas and facilities as well as their proportionate representation for voting purposes in the Association of Apartment Owners shall be the undivided interest shown in the tabulation above in paragraph 2 in the column entitled "Common Interest."

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments shall be occupied and used only as private dwellings and may not be used for transient or hotel purposes.

OWNERSHIP OF TITLE: A Preliminary Report prepared by Security Title Corporation issued on September 30, 1975, states that Poipu Makai holds the record title to the land committed to the Project.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Report prepared by Security Title Corporation identifies the following encumbrances on the land committed to the Project:

1. Tax Key: 2-8-020-004 Area Assessed: 33,036 square feet. Real Property Taxes for the Fiscal Year 1975-1976.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. As to that portion of the land herein described bordering on the Ocean:

The effect of Sections 205-31 to 205-37, inclusive, Hawaii Revised Statutes, as now or hereafter amended pertaining to shoreline setbacks.
4. Any adverse claim of the State based on the contention that some portion of the land lies seaward of the line of vegetation per County of Hawaii vs. Sotomura (1973) 55 H 176, 517 P.2d 57.
5. Mortgage dated February 28, 1974 recorded in the Bureau of Conveyances of Hawaii in Liber 9757, page 192, made by JAMES C. BLACKWELL JR., husband of Virginia R. Blackwell, as Mortgagor to AMERICAN SAVINGS AND LOAN ASSOCIATION, a Utah corporation, as Mortgagee, to secure the repayment of the sum of \$159,000.00.
6. Mortgage dated May 15, 1974, recorded in the Bureau of Conveyances in Liber 9934, page 307, made by JAMES C. BLACKWELL, JR., husband of Virginia R. Blackwell, ROBERT J. PROSSER, husband of Sue Ann Prosser, and M. H. EMERICH, husband of Gertrude M. Emerich, as Mortgagors, to NICHOLAS G. SMITH and BLACKWELL CONSTRUCTION, INC., as Mortgagee, to secure the repayment of the sum of \$140,000.00.

NOTE: The Developer has advised the Commission that:

A right of way 5 feet wide for public pedestrian access over the premises will be granted by the Developer to the County of Kauai.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated October 15, 1975, identifies SECURITY TITLE CORPORATION, a Hawaii corporation, Escrow Agent. On examination the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Sec. 514-35 and Section 514-36 through Section 514-40. Among other provisions the executed Escrow Agreement states that no money received by Escrow Agent shall be disbursed until the Seller has valid and binding contract for the sale of the unit for which money was received and the requirements of Section 514-36 through 514-39 have been met, all as provided for in Section 514-40, Hawaii Revised Statutes.

Prospective purchasers are advised to review the Deposit Receipt and Sales Contract with care. Note that selection of a unit merely establishes a preference for such unit and that the actual unit purchased shall later be determined by priority drawing. Even though the Buyer does not get the unit of his preference, he is obligated to buy an apartment which may be more or less in price than the one he has expressed a preference for.

NOTE: Buyer agrees that all of the rights of Buyer are and shall be subject and subordinate to the lien of any mortgage securing the repayment of any interim loan on the project made to finance the cost of construction and other costs of the project, and to any and all sums which may become a lien pursuant to the terms of such interim loan and any related agreement.

MANAGEMENT AND OPERATIONS: There is on file with the Commission a proposed Management Agreement between Developer and Sleeping Giant Realty, Inc., a Hawaii corporation, under which it will provide management services to the Association of Apartment Owners on a continuing basis cancellable upon 60 days notice by either party.

STATUS OF PROJECT: The developer is currently in the process of selecting a contractor to construct the project and arranging construction financing.

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 October 15, 1975.

This PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 815 filed with the Commission on October 15, 1975.

The report, when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles the paper stock shall be yellow 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

REGISTRATION NO. 815
October 31, 1975