

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

KONA BALI KAI

Alii Drive

Kolua, North Kona

County of Hawaii, State of Hawaii

REGISTRATION NO. 817

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: January 12, 1976

Expires: February 12, 1977

SPECIAL ATTENTION

A comprehensive reading of this report is urged so that the personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED OCTOBER 21, 1975, AND ADDITIONAL INFORMATION FILED AS OF JANUARY 7, 1976. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF THE INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES, AS AMENDED.

1. Kona Bali Kai is a proposed leasehold condominium project consisting of a swimming pool, and 154 apartments and a commercial unit arranged throughout 7 buildings. The developer proposes to sell to purchasers of the condominium apartments, apartment leases to be issued by the developer and sublessor.
2. A single condominium project is contemplated, however, the developer and its lessor has reserved the right to withdraw a portion of the Project (Phase II).

As shown on the condominium plans: (1) Phase I is situated makai of Alii Drive, Kona, Hawaii and shall consist of 85 apartments and one commercial unit contained in two buildings (Nos. 1 and 2), a swimming pool, and 94 parking spaces of which 7 are for guest parking; and (2) Phase II is situated mauka of Alii Drive, and shall consist of 69 apartments contained in 5 buildings (Nos. 3 through 7), and 92 parking spaces of which 23 are for guest parking.

3. The developer has submitted to the Commission for examination a filing of documents and exhibits which are complete except for some particular requirement, or requirements, which can be expected to be completed as part of this registration.
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 office of the recording officer.
5. No advertising or promotional matter has been submitted pursuant to the Rules and Regulations promulgated by the Commission.
6. The prospective purchaser is advised to acquaint himself with the provisions of the Horizontal Property Act, Chapter 514, Hawaii Revised Statutes, and with the rules and regulations promulgated pursuant thereto.
7. This Preliminary Report automatically expires thirteen (13) months after its date of issue, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for Horizontal Property Regime Public Report from each purchaser or prospective purchaser is also the responsibility of the Developer.

NAME OF PROJECT: KONA BALI KAI

LOCATION: The land submitted to the Regime, approximately 5 acres (223,553.46 square feet), is located along the mauka and makai sides of Alii Drive, Holualoa, North Kona, County of Hawaii, State of Hawaii.

TAX KEY: Third Taxation Division, 7-6-15: 9, 14, 17, 18, 19 and 23

ZONING: V-1.25, Resort Hotel District.

DEVELOPER: WALTER S. S. ZANE, whose residence and post office address is 1745 Luakahi Street, Honolulu, Hawaii.

ATTORNEY REPRESENTING DEVELOPER: JAMES H. WAKATSUKI, Suite 311, 1022 Bethel Street, Honolulu, Hawaii, Telephone No. 537-2952.

DESCRIPTION: There will be 154 apartments and one commercial unit in 7 buildings. The 7 buildings, which are designated on the condominium plans by numbers 1 through 7, will be constructed as follows:

Buildings Nos. 1 & 2 - principally of spread footings, load bearing reinforced concrete and masonry walls, party walls, Hambro D500 composite floor system, heavy timber roof, lanais, and walkways, wooden posts, concrete, steel, aluminium and allied building materials. Building No. 1 will be three floors while building No. 2 will be four floors with parking on the ground floor.

Buildings Nos. 3, 4, 5, 6 & 7 principally of spread footings, load bearing wood frame and reinforced masonry party walls, Homasote floor system, heavy timber roof, lanais, and stairways, wooden posts, aluminium and allied building materials. Buildings 3, 4, 5, 6, & 7 will each consist of 3 floors.

The apartments, including the apartment for the manager, and the commercial unit will be numbered and located as shown on the condominium plans, the digit which precede the last two digits of a unit indicates the floor of the building in which the unit will be located. Each of the units will be one of 9 types:

<u>Apt. No.</u>	<u>Type</u>	<u>Bldg. No.</u>
101	F, modified to studio for manager	1
102	G, Commercial unit (loft space)	1
226	F-R	1
227	E	1
230	E-R	1
231	F	1
326	F-R	1
327	E	1
328	E	1
329	E-R	1

<u>Apt. No.</u>	<u>Type</u>	<u>Bldg. No.</u>
330	E-R	1
331	F	1
201	A	2
202	B	2
203	B-R	2
204	B	2
205	B-R	2
206	B	2
207	B-R	2
208	B	2
209	B-R	2
210	B	2
211	B-R	2
212	B	2
213	B-R	2
214	B	2
215	B-R	2
216	E	2
217	B	2
218	B-R	2
219	B	2
220	B-R	2
221	B	2
222	B-R	2
223	B	2
224	C	2
225	D	2
301	A	2
302	B	2
303	B-R	2
304	B	2
305	B-R	2
306	B	2
307	B-R	2
308	B	2
309	B-R	2
310	B	2
311	B-R	2
312	B	2
313	B-R	2
314	B	2
315	B-R	2
316	E	2
317	B	2
318	B-R	2
319	B	2
320	B-R	2
321	B	2

<u>Apt. No.</u>	<u>Type</u>	<u>Bldg. No.</u>
322	B-R	2
323	B	2
324	C	2
325	D	2
401	A	2
402	B	2
403	B-R	2
404	B	2
405	B-R	2
406	B	2
407	B-R	2
408	B	2
409	B-R	2
410	B	2
411	B-R	2
412	B	2
413	B-R	2
414	B	2
415	B-R	2
416	E	2
417	B	2
418	B-R	2
419	B	2
420	B-R	2
421	B	2
422	B-R	2
423	B	2
424	C	2
425	D	2
132	H	3
133	H-R	3
134	H	3
135	H-R	3
232	H	3
233	H-R	3
234	H	3
235	H-R	3
332	H	3
333	H-R	3
334	H	3
335	H-R	3
141	J	4
142	J-R	4
143	J	4
144	J-R	4
241	J	4
242	J-R	4
243	J	4
244	J-R	4

<u>Apt. No.</u>	<u>Type</u>	<u>Bldg. No.</u>
341	J	4
342	J-R	4
343	J	4
344	J-R	4
151	J-R	5
152	J	5
153	J-R	5
251	J-R	5
252	J	5
253	J-R	5
351	J-R	5
352	J	5
353	J-R	5
161	H-R	6
162	H	6
163	H-R	6
164	H	6
165	H-R	6
166	J-R	6
167	J	6
168	H	6
261	H-R	6
262	H	6
263	H-R	6
264	H	6
265	H-R	6
266	J-R	6
267	J	6
268	H	6
361	H-R	6
362	H	6
363	H-R	6
364	H	6
365	H-R	6
366	J-R	6
367	J	6
368	H	6
171	J	7
172	J-R	7
173	J	7
174	J-R	7
271	J	7
272	J-R	7
273	J	7
274	J-R	7
371	J	7
372	J-R	7
373	J	7
374	J-R	7

The number of rooms and approximate area of each type of unit are as follows:

Type A: An eight room apartment, consisting of three bedrooms, two baths, kitchen, dressing room and a living/dining room, with an approximate living area of 1135 square feet, and a lanai area of approximately 184 square feet.

Type B: A six room apartment, consisting of two bedrooms, two baths, kitchen and living/dining room, with an approximate living area of 854 square feet, and a lanai area of approximately 181 square feet.

Type B-R: The reverse of type B.

Type C: A four room apartment, consisting of one bedroom, one bath, kitchen and a living/dining room, with an approximate living area of 699 square feet, and a lanai area of approximately 128 square feet.

Type D: A four room apartment, consisting of one bath, a dressing room, kitchen and a studio (living/bedroom), with an approximate living area of 483 square feet, and a lanai area of approximately 147 square feet.

Type E: A five room apartment, consisting of one bedroom, one bath, a dressing room, kitchen and a living/dining room, with an approximate living area of 627 square feet, and a lanai area of approximately 181 square feet.

Type E-R: The reverse of Type E.

Type F: A similar type as Type E, except that the living area is greater; Type F will have an approximate living area of 692 square feet, with a lanai area similar to Type E-approximately 181 square feet.

Type F-R: The reverse of Type F.

Type G: A commercial unit consisting of a loft space with an area of approximately 636 square feet.

Type H: A four room apartment, consisting of one bath, a dressing room, kitchen and a studio (living/bedroom), with an approximate living area of 433.6 square feet, and a lanai area of approximately 62 square feet.

Type H-R: The reverse of Type H.

Type J: A five room apartment, consisting of one bedroom, one bath, a dressing room, kitchen and a living/dining room, with an approximate living area of 557.6 square feet, and a lanai area of approximately 62 square feet.

Type J-R: The reverse of Type J.

Each of the apartments above the first floor will have immediate access to a walkway which leads to five stairways and an elevator in buildings 1 and 2, or to an adjacent stairway in

buildings 3, 4, 5, 6 and 7, and each stairway and the elevator lead to the grounds of the project.

The apartments and one commercial unit shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls, or of the interior load-bearing walls, the floors and perimeter ceilings surrounding each unit, or any pipes, wires, ducts, conduits, or other utility or service lines running through such unit which are utilized for or serve more than one unit, all of which are common elements as hereinafter provided. Each unit shall be deemed to include the walls and partitions which are not load-bearing and which are within its perimeter walls; doors and frames; windows and window frames; the inner decorated or finished surfaces of all walls, floors, and ceilings; the lanai, adjoining and connected thereto; and all fixtures originally installed therein.

COMMON ELEMENTS: The proposed Declaration states that the common elements for the project include, but are not limited to:

- (a) Said land in fee simple.
- (b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, chasis, apartment vestibules, entries, stairways, walkways, entrances and exits of said buildings and all exterior finishes.
- (c) The lobby, the manager's studio apartment, office and parking stall, accounting office, washrooms, storage rooms, laundry/storage room, elevator equipment room, electrical equipment room, picnic area, equipment storage closet, and court with swimming pool.
- (d) All yards, grounds and landscaping.
- (e) All roads, driveways and parking areas (including guest parking stalls) as indicated on the condominium map.
- (f) 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.
- (g) The sewer treatment plant, lift station and all appurtenant equipment, including but not limited to sewer pipelines.
- (h) Elevator lobby located on each floor and the elevator; all tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use.
- (i) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration states that one (1) parking space as designated on the Condominium Map, and also set forth opposite to the number of each of the respective apartments as set forth in Exhibit "B", attached to the Declaration, shall be a limited common element and appurtenant to and for the exclusive use of such apartment. Some apartments will be assigned compact parking stalls. The proposed Declaration provides that, subject to right of withdrawal as hereinafter provided, the remaining common elements of the project within the limits of each of Phases I and II as shown on the condominium plans, shall be limited common elements reserved for the use of the apartments within that phase. Upon the first assignment of an apartment lease covering an apartment in Phase II, the limited common elements reserved for the use of apartments in Phases I and II, other than the parking stalls reserved for the use of a certain apartment, shall automatically convert into and be deemed to be general common elements. The proposed Declaration further provides that if Phase II is withdrawn from the project, the limited common elements reserved for the use of Phase I, other than the parking stalls reserved for the use of a certain apartment, shall automatically convert into and be deemed to be general common elements.

The proposed Declaration states that common expenses attributable to limited common elements reserved for the use of more than one apartment shall be charged to the owners of the apartments for the use of which such limited common elements are reserved, the percentage share of such charges attributable to each of such apartments to equal the quotient obtained by dividing the common interests appurtenant to that apartment by the total of the common interests appurtenant to all of such apartments. The effect of the foregoing is that the common expenses attributable to Phase I shall be borne by the owners of apartments in Phase I until the first assignment of an apartment lease covering an apartment in Phase II, whereupon the common expenses attributable to all phases shall be borne by owners of all apartments.

The proposed Declaration further provides in part, that until all of the apartment leases have been assigned, the Lessor and Developer have reserved an easement over, under, and across the common elements of the Project, both general and limited, for purposes of all work connected with or incidental to the development, construction, and sale of the Project or any part thereof or any interest therein.

COMMON INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration discloses that each apartment shall have appurtenant thereto an undivided percentage interest, or common interest, in the common elements, in all profits and expenses of the project (except for limited common elements reserved for the use of more than one apartment as hereinabove provided), and for all other purposes, including voting (except as modified as hereinafter provided), according to the type of such apartment, as follows:

<u>Type of Apartment</u>	<u>Percentage Common Interest</u>
A	1.06401%
B, B-R	0.834915%
C	0.66712%
D	0.5082%
E, E-R	0.65179%
F, F-R	0.70423%

G (Commercial Unit)	0.513045%
H, H-R	0.39979%
J, J-R	0.49981%

In the event Phase II is withdrawn from the project, the common interests appurtenant to each apartment in Phase I shall automatically convert into a new undivided percentage interest equal to the quotient obtained by dividing the original percentage common interest of that apartment by the total of the original percentage common interests of all apartments in Phase I.

USE: The proposed Declaration provides that, except for the Commercial condominium unit, the accounting office and the manager's office, which shall be used, respectively, for commercial, accounting, and managerial purposes, the apartments shall be used only as living quarters and occupied and used by the respective owners thereof and their tenants, and the families, servants and guests of such owners and tenants, and for no other purpose; provided, however, that until all apartment leases covering the apartments in the project have been assigned to others, the developer shall be entitled to use apartments as sales offices and as models for display to the public. The apartment owners shall have the absolute right to lease their apartments subject to limitations, restrictions, covenants, and conditions contained in the Declaration or the By-Laws.

DEVELOPER'S OPTION TO WITHDRAW: The proposed Declaration provides that the Lessor and Developer have reserved the right to withdraw from the Project and from the provisions of the Horizontal Property Act, Phase II; however, the right to withdraw Phase II shall automatically terminate upon the first issuance of an apartment lease covering an apartment in Phase II or by December 31, 1978, whichever occurs first.

The proposed Declaration further provides that the voting or approval rights of apartment owners shall be modified pending the development of Phase II. Until but not beyond the effective date of the first issuance of an apartment lease covering an apartment in Phase II or December 31, 1978, whichever occurs first, all matters affecting only Phase I and not Phase II and requiring the vote or approval of the apartment owners, shall be sufficiently voted upon or approved by the applicable owners of apartments in Phase I only. Upon the effective date of the first issuance of an apartment lease covering an apartment in Phase II, the modification of voting and approval rights provided shall automatically terminate.

OWNERSHIP OF AND ENCUMBRANCES AGAINST TITLE: Marjorie C. Hind, wife of R. Leighton Hind, is the fee owner of the property committed to the project. A copy of the Preliminary Report, dated December 12, 1975, issued by Title Guaranty of Hawaii, represents that the fee simple title to the land is vested as aforesaid. Said Preliminary Report reflects the following encumbrances:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions of that certain Indenture of Lease dated April 21, 1960, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 3819 at Page 460, made by and between Marjorie C. Hind, also known as Marjorie Capps Hind, wife of

R. Leighton Hind, as Lessor, and Hung Wo Ching, husband of Elizabeth Lau Ching, and Man Kwong Au, husband of Lilly Hee Au, Joint Tenants, as Lessee, for a term commencing on the 15th day of February, 1960 and ending on the 14th day of February, 2025, at midnight, unless sooner terminated; as amended by instrument dated June 3, 1969, and recorded in said Bureau of Conveyances in Liber 6544 at Page 35; said Lease, through mense assignments is now held by Walter S. S. Zane, husband of Florence F. Zane, as Lessee, by Assignment of Lease dated January 15, 1973, recorded in said Bureau of Conveyances in Liber 10374 at Page 25; and said Lease has been further amended by instrument dated June 24, 1975, recorded in said Bureau of Conveyances in Liber 10851 at Page 408.

3. The terms and provisions of that certain mortgage dated September 1, 1972, recorded in said Bureau of Conveyances in Liber 8590 at Page 88, made by W & C, Ltd., a Hawaii corporation, as Mortgagor, to Andrew D. Berkey, II, husband of Jacquelyn L. Berkey, and Andrew D. Berkey, II and William H. Tilley, General Partners of and for Kona Tropics, a limited partnership, as Mortgagee, to secure the repayment of that certain promissory note of said Mortgagor therein referred to.

4. AS TO PARCEL FIRST ONLY:- A grant of easement by Bishop Trust Company, Limited to Hawaii Electric Light Company, Inc., formerly known as Hilo Electric Light Company, Limited, dated January 13, 1958, as mentioned in instrument recorded in Liber 9167 at Page 2.

NOTE: The abstractors are unable to locate of record said grant dated January 13, 1958.

5. AS TO PARCEL FOURTH ONLY:- Location of the seaward boundary in accordance with the law of the State of Hawaii.

6. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Third Division.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated December 31, 1975, between Title Guaranty of Hawaii and Walter S. S. Zane has been submitted as part of this registration. The specimen Sales Contract and the executed Escrow Agreement have been examined and have been found to conform with the requirement of Chapter 514, Hawaii Revised Statutes, including the requirements of Sections 514-36 through 514-40, Hawaii Revised Statutes.

The Sales Contract provides in part that the Seller may cancel the Sales Contract upon written notice to Buyer, in which event Seller shall refund to Buyer of all amounts paid by him hereunder, without interest and after deduction of Buyer's share of escrow fees and all mortgage loan expenses, (a) at any time prior to issuance of a Final Public Report, or (b) if upon expiration of nine months after the issuance of a Final Public Report, either the construction of apartments (other than model apartments) has not commenced or apartment leases of at least 80% of the apartments in the Phase in which Buyer's apartment is situated have not been sold under binding sales contracts.

Prospective buyers should be aware that the Seller's mortgage loan (interim, renewals and extensions) used for the construction of the Project shall be and remain at all times a superior lien on the Project, and buyers intentionally waive and subordinate the priority of lien under the sales contract or reservation agreement in favor of the mortgage loan.

NOTE: The proposed Declaration reflects that in the event that the Developer withdraws a portion of the project, then the project will be considered as having two phases. However, the executed Escrow Agreement and the specimen Sales Contract reflect that the project will be constructed and leasehold interests be sold in two phases (Phases I and II).

Since the Sales Contract gives both the prospective purchaser and the developer the option of cancellation upon the occurrence of certain events; and since the Escrow Agreement establishes the procedure for receiving and disbursing purchasers' funds deposited in escrow; and since the Sales Contract specifically provides that the purchaser approves the Escrow Agreement, it is incumbent upon the prospective purchaser to read and understand both the Escrow Agreement and the Sales Contract before executing the latter.

MANAGEMENT AND OPERATION: The proposed Declaration and By-Laws of the Association of Apartment Owners provide that the operation of the project shall be conducted for the Association by a responsible corporate managing agent under the direction of the Association's Board of Directors. The specimen Sales Contract authorizes the developer to employ the first managing agent; gives the managing agent authority for the management, operation, and maintenance of the project; and provides that upon being billed for the same, the purchaser will pay his proportionate share of project maintenance expenses and reserves. The developer advises that it presently intends to retain Walter Zane Realty, Inc. as the initial managing agent.

HOUSE RULES: The House Rules provide in part:

1. No water beds shall be permitted in an apartment unit.
2. Unless prior written approval, the maximum number of persons permitted to reside in an apartment unit, shall not exceed: studio-3 persons; one bedroom-4 persons; two bedroom-6 persons; and three bedroom-8 persons.

STATUS OF PROJECT: The Developer advises that the construction contracts for both Phases I and II have been tentatively approved, subject to finalization of financing commitments. The Developer further advises that the estimated time of completion for Phase I is 18 months after the construction contract for said Phase is finalized and signed; and for Phase II, 15 months after the construction contract for Phase II is finalized and signed.

The purchaser or prospective purchaser should recognize that this published report represents information disclosed by the

developer in the required Notice of Intention submitted on October 21, 1975.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 817 filed with the Commission on October 21, 1975, and additional information filed as of January 7, 1976.

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


Member
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

Registration No. 817
January 12, 1976