

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

BAY VILLAS (Phase I)
Kapalua, Maui, Hawaii

REGISTRATION NO. 820

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: March 16, 1977

Expires: April 16, 1978

SPECIAL ATTENTION

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

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED NOVEMBER 4, 1975 AND INFORMATION SUBSEQUENTLY FILED AS OF MARCH 8, 1977. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report on BAY VILLAS (Phase I), Registration No. 820, dated November 14, 1975, the Developer has prepared and forwarded additional information to that filed in the November 4, 1975 submittal. Of special

significance is the fact that the Developer has exercised its option contained in paragraph 16 of the Declaration to construct Phase II (designated as "Phase II") of the project substantially similar to Phase I and the appurtenant common elements. Phase II is covered by a separate Preliminary Public Report issued by the Commission as Registration No. 831, on January 19, 1976. In this respect, the Developer has recorded an Amendment of Declaration of Horizontal Property Regime ("Phase II Amendment") in the Bureau of Conveyances of the State of Hawaii, in Liber 11975 at Page 342. Pursuant to said paragraph 16 of the Declaration, the Developer has decreased the common interest appurtenant to each Phase I apartment and allocated the common interest appurtenant to each Phase I and Phase II apartment so that the common interest appurtenant to each apartment is of the same ratio to the total of common interest appurtenant to all Phase I and Phase II apartments combined as the gross area of each said apartment bears to the total gross area of all apartments combined.

2. This Final Public Report is made a part of the registration of BAY VILLAS (PHASE I) and 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). THE PURCHASER OR PROSPECTIVE PURCHASERS SHOULD REALIZE THAT THIS FINAL PUBLIC REPORT IS ISSUED WITH RESPECT ONLY TO PHASE I OF THE PROJECT, AND SHALL BE USED IN CONNECTION WITH SALES OF APARTMENTS IN PHASE I ONLY.

Securing a signed copy of the Receipt for both Horizontal Property Regimes Public Reports from each purchaser and prospective purchaser is also the responsibility of the Developer.

3. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the issuance of this Final Public Report.
4. Advertising and promotional matter have been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The basic documents (Declaration of Horizontal Property Regime, Phase II Amendment, By-Laws of Association of Apartment Owners, and a copy of the approved Floor Plans) have been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime, together with the By-Laws of the Association of Apartment Owners attached thereto, and the Phase II Amendment, were recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11975 at Page 242, and in Liber 11975 at Page 342, respectively, and Condominium Map No. 488 (Amended) for Phase I and Phase II has been designated to the project by said Bureau.

6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514 of the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to horizontal property regimes.
7. This Final Public Report automatically expires thirteen (13) months after date of issuance, March 16, 1977, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information in the topical headings of the Preliminary Public Report has not changed, except for LOCATION, DEVELOPER, DESCRIPTION, COMMON ELEMENTS, INTEREST TO BE CONVEYED TO PURCHASER, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, STATEMENT OF FINANCING and STATUS OF PROJECT.

LOCATION: The land submitted to the Regime and on which Phases I and II will be situated is approximately 16.451 acres, and is located in Kapalua, Maui.

DEVELOPER: Kapalua Land Company, Ltd., a Hawaii corporation, whose post office address is P. O. Box 188, Kahalui, Maui, Hawaii, telephone number 669-8037. The officers of the corporation are:

Chairman of the Board and Chief Executive Officer	Colin C. Cameron
President	Thos Rohr
Vice President	Benjamin W. Baker
Secretary and Treasurer	Charles S. DuBois
Assistant Secretary	William M. Slater

DESCRIPTION: The Declaration of Horizontal Property Regime and Phase II Amendment submitted to the Commission (hereinafter referred to as the "Declaration") provides that the entire Project (both Phase I and Phase II) will consist of

twenty-seven (27) separate residential buildings, containing a total of one hundred forty-one (141) apartments. Bay Villas (Phase I) will consist of sixty-three (63) apartments contained in twelve (12) separate residential buildings, three (3) of which contain five (5) apartments each, seven (7) of which contain six (6) apartments each, and two (2) of which contain three (3) apartments each. The Project will contain three (3) swimming pools (two (2) of which are in Phase I), walkways, driveways and outdoor parking areas. Each unit will include standard appliances. The respective apartments shall not be deemed to include (a) the undecorated or unfinished surfaces of the perimeter walls, interior load-bearing walls or interior party walls, (b) the floors and ceilings surrounding each apartment, or (c) any pipes, shafts, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include (i) all the walls and partitions which are not load-bearing within its perimeter walls, (ii) the inner decorated or finished surfaces of all walls, floors and ceilings, (iii) any doors, windows or panels along the perimeters, (iv) any adjacent lanai to which each apartment has direct exclusive access, and (v) all fixtures originally installed therein. Each apartment has immediate access to the common land area with walkways to the parking areas and public highway.

1. Building Descriptions. Bay Villas (Phase I) contains three (3) Type A buildings containing five (5) apartments each. These are designated as buildings 16, 19 and 23. The seven (7) Type B buildings containing six (6) apartments each are designated as buildings 14, 15, 17, 20, 21, 22 and 25. The two (2) Type C buildings containing three (3) apartments each are designated as buildings 18 and 24. Type A buildings have two (2) stories, including a ground floor, but no basement. Type B and Type C buildings have three (3) stories, including a ground floor, but no basement. The letter "r" after a building type means reversed.

2. Materials. Each building will be constructed principally of wood frame with concrete block exteriors, concrete roof tiles and a concrete floor slab.

3. Description, Area and Numbering of Apartments. There will be six (6) apartment unit types ("Units") designated as Units 1 - 1, 1L - 1-1/2E, 1L - 1-1/2I, 1 - 2D, 2 - 3D and 2L - 3D, which are described below.

The first number of the unit type indicates the number of bedrooms; the second number, the number of bathrooms; and the letters indicate: "L" - loft, "E" - end unit, "I" - interior unit, and "D" - divisible unit.

Unit 1-1 is a single-story apartment containing four (4) rooms consisting of one bedroom, one bathroom, kitchen, and a living room-dining area plus two lanais totaling approximately 268 square feet on bridge level apartments and approximately 303 square feet in Type A buildings and approximately 375 square feet in Type B buildings, on garden level apartments. The apartment floor area excluding lanais is approximately 1006 square feet (approximately 989 square feet in Type A buildings). The floor area including lanai is approximately 1274 square feet (approximately 1257 square feet in Type A buildings) on the bridge level, and approximately 1381 square feet (approximately 1292 square feet in Type A buildings) on the garden level. There are forty-four (44) Unit 1-1 apartments in the Project, of which twenty (20) are in Phase I.

Unit 1L - 1-1/2E is a two-story apartment containing five (5) rooms consisting of one bedroom, one and one-half bathrooms, kitchen, and living-dining room, plus two lanais totaling approximately 408 square feet. The apartment floor area excluding lanais is approximately 993 square feet, and approximately 1401 square feet including lanais. There are twenty-seven (27) Unit 1L - 1-1/2E apartments in the Project, of which twelve (12) are in Phase I.

Unit 1L - 1-1/2I is a two-story apartment containing five (5) rooms consisting of one bedroom, one and one-half bathrooms, kitchen and living-dining room, plus two lanais totaling approximately 222 square feet. The apartment floor area is approximately 995 square feet excluding lanais and approximately 1217 square feet including lanais. There are sixteen (16) Unit 1L - 1-1/2I apartments in the Project, of which seven (7) are in Phase I.

Unit 1-2D is a single-story apartment with two entrances, containing six (6) rooms consisting of one bedroom, two bathrooms, kitchen, living room, and dining room, plus two lanais totaling approximately 451 square feet. The apartment floor area is approximately 1096 square feet excluding lanais and approximately 1547 square feet including lanais. There are five (5) Unit 1-2D apartments in the Project, of which two (2) are in Phase I.

Unit 2-3D is a single-story apartment with three entrances, containing eight (8) rooms consisting of two

bedrooms, three bathrooms, kitchen, living room, and dining room, plus three lanais totaling approximately 486 square feet on bridge level units and approximately 528 square feet in Type B buildings and approximately 510 square feet in Type A buildings on garden level units. The apartment floor area excluding lanais is approximately 1529 square feet (approximately 1503 square feet in Type A buildings). The floor area including lanais is approximately 2015 square feet (approximately 1989 square feet in Type A buildings) on bridge level units and approximately 2057 square feet (approximately 2013 square feet on Type A buildings) on garden level units. There are twenty-eight (28) Unit 2-3D apartments in the Project, of which thirteen (13) are in Phase I.

Unit 2L-3D is a two-story apartment with two entrances, containing eight (8) rooms consisting of two bedrooms, three bathrooms, kitchen, living room, and dining room, plus three lanais totaling approximately 508 square feet in Type B buildings and approximately 518 square feet in Type C buildings. The apartment floor area is approximately 1547 square feet excluding lanais and approximately 2055 square feet in Type B buildings and approximately 2065 square feet in Type C buildings, including lanais. There are twenty-one (21) Unit 2L-3D apartments in the Project, of which nine (9) are in Phase I.

Each apartment is designated by two digits, a letter and a single or multiple digits, in that order. The first two digits represent the building number, followed by either a "B" representing bridge level or "G" representing garden level, followed by the apartment number or two numbers in the case of Unit 1-2D and 2L-3D apartments or three numbers in the case of Unit 2-3D apartments. The numbering is from west to east and from 1 through 5 in the individual buildings. For example, Apartment 16B-2, 3 & 4 is in Building 16 on the bridge level and is the second unit from the west side of the building. Units with more than one entrance have an extra number for each entrance (e.g., 14G-3, 4 & 5), but the actual numbering on the entrances may not be in sequence.

The apartment types and numbers for Phase I are listed below:

<u>APARTMENT UNIT TYPE</u>	<u>APARTMENT NUMBERS</u>
1 - 1	14G-2, 14B-1, 15G-4, 15B-4, 16G-2, 16B-1, 17G-4, 17B-4, 19G-4, 19B-4, 20G-4, 20B-4, 21G-4, 21B-4, 22G-4, 22B-4, 23G-2, 23B-1, 25G-4, 25B-4,

<u>APARTMENT UNIT TYPE</u>	<u>APARTMENT NUMBERS</u>
1L - 1-1/2E	14G-1, 15G-5, 16G-1, 17G-5, 18G-3, 19G-5, 20G-5, 21G-5, 22G-5, 23G-1, 24G-3, 25G-5
1L - 1-1/2I	14B-2, 15B-3, 17B-3, 20B-3, 21B-3, 22B-3, 25B-3
1 - 2D	18G-1&2, 24G-1&2
2 - 3D	14G-3,4&5, 15G-1,2&3, 16G-3,4&5 16B-2,3&4, 17G-1,2&3, 19G-1,2&3 19B-1,2&3, 20G-1,2&3, 21G-1,2&3 22G-1,2&3, 23G-3,4&5, 23B-2,3&4 25G-1,2&3
2L - 3D	14B-3&4, 15B-1&2, 17B-1&2, 18B-1&2, 20B-1&2, 21B-1&2, 22B-1&2, 24B-1&2, 25B-1&2

The floor areas were arrived at by taking the measurements to the interior surface of all perimeter walls (or party walls, if applicable) and to the interior surface of the lanai railings, without exclusions for ducts, columns, stairs, elevators, walls, or other interior construction or equipment within such areas.

COMMON ELEMENTS: The common elements will include the limited common elements described in the topical heading, LIMITED COMMON ELEMENTS, and all other portions of the project other than the apartments, and all elements mentioned in the Horizontal Property Act which are actually included in the project including specifically but not limited to:

- (a) The land in fee simple as described in Exhibit A attached to the Declaration;
- (b) All foundations, floor slabs, beams, columns, supports, girders, unfinished perimeter and load-bearing walls, walkways, ramps, fences, railings and roofs;
- (c) All driveways, roadways, pavements, parking areas and walkways and all planted areas, grounds, landscaping, and other recreational areas, including swimming pool(s), refuse facilities and mail boxes (NOTE: The Developer has advised the Commission that there will be no less than 141 parking stalls in both phases of the Project);
- (d) All common laundry facilities and storage areas;

(e) All ducts, electrical equipment, wiring, pipes 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, water, sewer, telephones and radio and television signal distribution;

(f) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance, and safety, or normally in common use.

INTEREST TO BE CONVEYED TO PURCHASER: Pursuant to paragraph 16 of the Declaration with respect to the construction of Phase II, the undivided percentage interest in all common elements of the Project appurtenant to each Phase I apartment and the same proportionate share in all common profits and expenses of the Project and for all other purposes including voting have been reduced to the percentages set forth below.

<u>APARTMENT UNIT TYPE</u>	<u>%</u>
1 - 1	0.567220
1L - 1-1/2E	0.567220
1L - 1-1/2I	0.567220
1 - 2D	0.680526
2 - 3D	0.964270
2L - 3D	0.964270

OWNERSHIP TO TITLE: Title to the land is vested in Maui Land & Pineapple Company, Inc. and leased to the Developer.

ENCUMBRANCES AGAINST TITLE: The Developer has filed with the Commission a title search report prepared by Title Guaranty of Hawaii Incorporated dated January 25, 1977. The updated title search report states that title to the land committed to the regime is subject to the following:

(a) Reservation in favor of the State of Hawaii of all mineral and metallic mines.

(b) Location of the seaward boundary in accordance with the law of the State of Hawaii.

(c) The terms, covenants and restrictions contained in that certain Declaration of Covenants and Restrictions dated December 29, 1976, made by Maui Land & Pineapple Co., Inc. and recorded in Liber 11922, at Page 26 ("Kapalua Protective Provisions").

"Any easements and/or licenses for the use of the golf course, tennis courts and other recreational facilities constructed or to be constructed on the property subject to the Kapalua Protective Provisions, which may be granted by Declarant to individuals, persons, corporations and other entities, may be granted free and clear of any and all terms, covenants, conditions, restrictions, or reservations contained herein as Declarant may desire."

(d) Grant of easement in favor of Maui Electric Ltd. and Hawaiian Telephone Co. dated May 7, 1976, and recorded in Liber 11443 at Page 479.

(e) That certain Mortgage and Security Agreement dated April 24, 1975, made by Kapalua Land Company, Ltd., a Hawaii corporation, as Mortgagor, and Bank of Hawaii, a Hawaii corporation, as Mortgagee, recorded in the said Bureau in Liber 10667, at Page 1 (affects the land described above besides other land).

By instrument dated May 23, 1975, and recorded in the said Bureau in Liber 10667, at Page 62, Kapalua Land Company, Ltd. and Maui Land & Pineapple Co., Inc., both Hawaii corporations, assign to Bank of Hawaii, all right, title and interest in and to the land described above, besides other land, as additional security to the Mortgage described above.

By instrument dated June 30, 1976, and recorded in the said Bureau in Liber 11515, at Page 397, Kapalua Land Company, Ltd. assigns to Bank of Hawaii a security interest in and to the land described above as additional security to the Mortgage described above.

(f) The terms and conditions contained in that certain Lease dated May 11, 1976, entered into by and between Maui Land & Pineapple Co., Inc., as Lessor, and Kapalua Land Company, Ltd., as Lessee, recorded in Liber 11515, at Page 279.

(g) That certain Mortgage and Security Agreement dated June 30, 1976, made by Kapalua Land Company, Ltd., a

Hawaii corporation, as Mortgagor, and Bank of Hawaii, a Hawaii corporation, as Mortgagee, recorded in the said Bureau in Liber 11515, at Page 309 (affects the leasehold interest described in item (f) above).

By Additional Security Mortgage and Security Agreement dated June 30, 1976, and recorded in the said Bureau in Liber 11515, at Page 358, Maui Land & Pineapple Co., Inc., a Hawaii corporation, assigns to Bank of Hawaii, a Hawaii corporation, all of its right, title and interest as fee owner and as Lessor in and to the Lease described in item (f) above, besides other land, as additional security to the Mortgage and Security Agreement described above.

(h) Subordination and assignment dated October 14, 1976, recorded in Liber 11739 at Page 377 between the Bank of Hawaii, Kapalua Land Co., Ltd. and Maui Land & Pineapple Co., Inc.

(i) The terms, covenants, conditions and restrictions of the Declaration of Horizontal Property Regime Bay Villas dated January 14, 1977, made by Maui Land & Pineapple Co., Inc. and Kapalua Land Company, Ltd., and recorded in Liber 11975 at Page 242; as amended by Amendment to Declaration of Horizontal Property Regime Bay Villas ("Phase II Amendment") dated January 14, 1977 and recorded in Liber 11975 at Page 342.

(j) Any real property taxes and assessments as may be due and owing. This can be verified at the Tax Office of the 2nd Division.

NOTE 1. The Developer advises that the following reservations and exceptions are contained in the Declaration mentioned in item (i) above:

(a) Reservation in favor of Maui Land & Pineapple Co., Inc., of the right, at its expense and for the benefit of the land described above or adjacent property (including without limiting the generality of the foregoing, the Hawea Lighthouse Lot owned by the United States of America) or other Kapalua Resort property (i) to grant over, across and under the easements described above and the common elements, easements for utilities, sanitary and storm sewers, cable television, walkways, ingress and egress for vehicular and pedestrian traffic, and rights of way, and (ii) to relocate or realign any existing easements and rights of way over, across, and under the land described above, including without limitation, any existing utilities, sanitary and sewer lines and cable television and connect same, over, across

and under the land described above, provided that such easements and such relocations and connections of lines shall not materially impair or interfere with the use of the land described above.

(b) Reserving and excepting to MAUI LAND & PINE-APPLE COMPANY, INC., its successors and assigns (collectively the "Reservant"), forever, as appurtenant to lands of Reservant, located in the District of Lahaina, Island and County of Maui, State of Hawaii, now owned and used or hereinafter acquired and used by Reservant (whether in fee, lease, or otherwise), in its pineapple plantation and other agricultural operations, the perpetual right and easement over and upon the lands described above and/or submitted to the Kapalua Protective Provisions, to discharge and emit, diffuse and inflict, noise, smoke, soot, dust, lights, noxious vapors, odors, and other minor nuisances of every description created by and resulting from the operations of Reservant in burning, harvesting, fertilizing, watering, growing, planting, generating power, trucking, hauling, milling, and all other activities incidental to the operation of a pineapple plantation and all other agricultural activities of Reservant.

NOTE 2. The Developer has informed the Commission that at the time of the first conveyance or lease of each apartment, every mortgage and other lien, except any improvement district or utility assessment, affecting the apartment being conveyed or leased and its common interest shall be released therefrom by partial release duly recorded.

STATEMENT OF FINANCING: The Statement of Program of Financing submitted by the Developer reflects that the Developer's costs for both Phases will be \$16,467,000.00. Of this sum, a maximum of \$5,434,000.00 will be available through a construction loan from Bank of Hawaii, and the balance through Developer's own resources. Costs will be paid from sales proceeds realized from sales of the apartments in the project. The Statement of Financing also reflects that the Developer has obtained a commitment for permanent financing from American Savings & Loan Association, to a maximum of \$7,336,000.00.

STATUS OF PROJECT: The Developer advises that construction of Phase I of the project commenced in March 1976, and estimates that construction will be completed about June 1977. The Developer has filed with the Commission a 100% Completion Bond.

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 November 4, 1975, and information subsequently filed as of March 8, 1977. The information disclosed in the Commission's Preliminary Public Report of November 14, 1975 should be carefully reviewed by purchasers and prospective purchasers.

THIS FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 820 filed with the Commission November 4, 1975.

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.

Mary V. Savio for

AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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Registration No. 820

March 16, 1977