

# 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

NAPILI POINT  
Honoapiilani Highway  
Kaanapali, Lahaina, Maui, Hawaii

REGISTRATION NO. 849

### **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: April 19, 1976  
Expires: May 19, 1977

#### 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 MARCH 12, 1976, AND INFORMATION SUBSEQUENTLY FILED AS OF APRIL 13, 1976. THE DEVELOPER, 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. NAPILI POINT is a proposed condominium project consisting of six (6) buildings, without basements, consisting of seventy-five (75) apartments and ninety-five (95) parking spaces.

2. 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.

3. 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.

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

5. 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 Rules and Regulations which relate to Horizontal Property Regimes.

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, April 19, 1976, unless a supplementary or Final Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. This Preliminary Public Report is made a part of registration on NAPILI POINT 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: NAPILI POINT.

LOCATION: The approximate 147,483 square feet of land committed to the regime is situated on Honoapiilani Highway, Kaanapali, Lahaina, Maui, Hawaii.

TAX MAP KEY: Second Division: 4-3-02-21(2) and 22(2).

ZONING: County of Maui: Napili Bay Civil Improvement District.

DEVELOPER: NAPILI POINT PARTNERS, a Hawaii Limited partnership, 20th Floor, Davies Pacific Center, Honolulu, Hawaii, and whose General Partner is The McCormack Corporation, a Hawaii corporation, 20th Floor, Davies Pacific Center, Honolulu, Hawaii 96813; and whose Limited Partners are: Robert S. Ricketts, P. O. Box 1042, Lahaina, Maui, Hawaii 96761; H. F. Enright, Jr., 9320 Falls Bridge Lane, Potomac, Maryland 20854; American Trust Co. of Hawaii, Inc., Trustee for Valley Corporation Money Purchase Pension Plan Trust, 841 Bishop Street, Suite 1203, Honolulu, Hawaii 96813; Minch Investment Company, a limited partnership, c/o Flora Jane Minch, P. O. Box 1206, Lahaina, Maui, Hawaii 96761; Bette Jayne Johns, 231 Hakuone Street, Wahiawa, Hawaii 96786;

Mr. and Mrs. George A. Nelson, 404 San Antonio Avenue, Suite L, San Diego, California 92106; Mr. and Mrs. Alfred J. Malak, P. O. Box 587, Kihei, Maui, Hawaii 96753; Elizabeth H. Buinac, P. O. Box 265, Pukalani, Maui, Hawaii 96788; William W. Clark, III, P. O. Box 1118, Lahaina, Maui, Hawaii 96761; Thomas O. Lawson, 13235-C Fiji Way, Marina del Rey, California 90291; Dr. and Mrs. Garton E. Wall, 2667 Tantalus Drive, Honolulu, Hawaii 96822; Mr. and Mrs. H. J. Bothwell, 1013 Via Nogales, Palos Verdes Estates, California 90274; Mr. and Mrs. George Bech, Jr., 65 Hanapepe Loop, Honolulu, Hawaii 96825; Fred Haywood, c/o Whaler's Village Center, Kaanapali Beach, Hawaii 96761; Thomas F. McCormack, 1344 Mokulua Drive, Kailua, Hawaii 96734; Maui Office Hui, c/o Fred Magee, Whaler's Village Center, Kaanapali Beach, Hawaii 96761; and George S. Langston, 3134 Colby Avenue, Los Angeles, California 90066.

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 six (6) buildings, without basements, consisting of a total of seventy-five (75) apartments:

Apartment Nos. A-1, A-2, A-3, A-4, A-5, A-6 and A-7 are located in Building "D".

Apartment Nos. A-8, A-9, A-10, A-11 and A-12 are located in Building "E".

Apartment Nos. A-13, A-14, A-15, A-16, A-17, A-18 and A-19 are located in Building "F".

Apartment Nos. B-1, B-2, B-3, B-4, B-5, B-6, B-7 and B-8 are located in the ground floor of Building "C".

Apartment Nos. B-9, B-10, B-11, B-12, B-13, B-14, B-15 and B-16 are located in the ground floor of Building "B".

Apartment Nos. B-17, B-18, B-19, B-20, B-21, B-22, B-23, B-24, B-25, B-26, B-27 and B-28 are located in the ground floor of Building "A".

Apartment Nos. C-1 and C-8 are located in the second floor of Building "C".

Apartment Nos. C-2, C-3, C-4, C-5, C-6 and C-7 are located in the second and mezzanine floors of Building "C", the two floors of each of these apartments being connected by an internal stairway.

Apartment No. C-9 is located in the second floor of Building "B".

Apartment Nos. C-10, C-11, C-12, C-13, C-14, C-15, and C-16 are located in the second and mezzanine floors of Building "B", the floors of each of these apartments being connected by an internal stairway.

Apartment No. C-28 is located in the second floor of Building "A".

Apartment Nos. C-17, C-18, C-19, C-20, C-21, C-22, C-23, C-24, C-25, C-26 and C-27 are located in the second and mezzanine floors of Building "A", the floors of each of these apartments being connected by an internal stairway.

The principal materials used in the construction of the buildings are concrete, masonry, wood and stucco.

The apartments are constructed according to several different floor plans. A description of each of the floor plans, designating the layout, the number of rooms and the approximate area thereof is as follows:

Garden Apartment - Eight (8) apartments, being Nos. A-1, A-6, A-7, A-8, A-9, A-11, A-14 and A-18, are built according to this floor plan, each consisting of five (5) rooms, including a living room, a bedroom, a kitchen, a bathroom, a dressing room and a lanai. All rooms and the lanai of each apartment are located on the first floor of their respective buildings; each of these apartments contains a floor area of approximately 690 square feet, including the lanai of approximately 86 square feet.

Garden Apartment (Reversed) - Eleven (11) apartments, being Nos. A-2, A-3, A-4, A-5, A-10, A-12, A-13, A-15, A-16, A-17 and A-19, are built according to this floor plan, which is the mirror image of the "Garden Apartment" floor plan. All rooms and the lanai of each apartment are located on the first floor of their respective buildings.

Ground Floor End Unit - Two (2) apartments, being Nos. B-8 and B-28, are built according to this floor plan, each consisting of five (5) rooms, including a living room, a bedroom, a kitchen, a bathroom, a dressing room and a lanai. All rooms and the lanai of each apartment are located on the first floor of their respective buildings; each of these apartments contains a floor area of approximately 896 square feet, including the lanai of approximately 176 square feet.

Ground Floor End Unit (Reversed) - Two (2) apartments, being Nos. B-1 and B-9, are built according to this floor plan, which is the mirror image of the "Ground Floor End Unit" floor plan. All rooms and the lanai of each apartment are located on the first floor of their respective buildings.

Second Floor End Unit - Two (2) apartments, being Nos. C-8 and C-28, are built according to this floor plan, which

Each apartment has immediate access to the grounds of the project or to a 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 and lanais, the lanai air space, and all fixtures originally installed therein.

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

1. The land in leasehold for the term of the Declaration;
2. All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, stairways, walkways, entrances and exits of said buildings;
3. All yards, grounds and landscaping;
4. All parking areas;
5. Swimming pool;
6. 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; and
7. 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 leading from the second floors to the grounds of the project shall be appurtenant to and for the exclusive use of the respective apartments served by them.

INTEREST TO BE CONVEYED TO PURCHASERS: Documents filed with the Commission indicate that the purchaser will secure an Apartment Lease and Sublease, demising an apartment and an undivided 1/75th fractional interest (an undivided 1.3333+ percentage interest) in all 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.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that, except when a mortgagee has entered into possession of an apartment following (i) a default under a first mortgage, (ii) a foreclosure proceeding, or (iii) a conveyance in lieu of foreclosure, the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and for no other purpose except that the apartments may also be rented for transient or hotel purposes. The owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration and the By-Laws attached hereto; provided, however, that no apartment owner may lease less than the entire apartment.

OWNERSHIP OF TITLE: A Preliminary Report issued March 1, 1976 by Title Guaranty of Hawaii, Incorporated certifies that August Reimann, Jr., widower, 46-433 Holokaa Street, Kaneohe, Hawaii, is the fee simple owner of the land described in Exhibit "A" to the proposed Declaration, and that Erik Lund Jacobsen, husband of Gladys Peggy Jacobsen, Penthouse No. 1, Maui Kaanapali Hotel, Lahaina, Maui, Hawaii, is the fee owner of the land described in Exhibit "B" to the proposed Declaration. Said Erik Lund Jacobsen is the current lessee under a lease covering the land described in said Exhibit "A", said lease being dated December 3, 1968, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 6344, Page 55. Under letter agreement dated February 6, 1975, said Erik Lund Jacobsen has agreed to lease both of said parcels of land to Developer.

ENCUMBRANCES AGAINST TITLE: A Preliminary Report dated March 1, 1976, issued by Title Guaranty of Hawaii Incorporated, as submitted to the Commission, provides that the following are encumbrances against title to the property:

1. 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 Second Division, Island of Maui, Hawaii.

2. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

3. As to parcel First only (being the land described in Exhibit "A" to the proposed Declaration):

a. Location of the seaward boundary in accordance with the law of the State of Hawaii.

b. Terms, agreements, reservations, covenants, conditions and provisions contained in lease recorded in the Bureau of Conveyances of the State of Hawaii in Liber 6344, Page 55.

c. Mortgage dated June 1, 1970, recorded as aforesaid in Liber 7077, Page 155, in the amount of \$100,000.00; mortgage assigned by mesne assignments to Hawaii National Bank, Honolulu, by instrument dated May 19, 1971, recorded as aforesaid in Liber 7612, Page 430.

4. Assignment of proceeds of sale dated December 18, 1975 and recorded as aforesaid in Liber 11112 at Page 572; Erik Lund Jacobsen assigns to the Internal Revenue the net proceeds of sale of Sublease dated February 6, 1975 (unrecorded) covering the premises under search to the extent of any delinquent taxes owed by Custom Builders, Ltd., for the period of June 30, 1965 through June 30, 1971.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated March 5, 1976, between Title Guaranty Escrow Services, Inc., 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 thereof.

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 cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred: (a) Escrow receives a written request from Seller to return to purchaser the funds of such purchaser then held by Escrow; (b) if purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the building plans, subsequent to the execution of purchaser's contract, requiring the approval of the city and county officer having jurisdiction over the issuance of permits for construction, unless the purchaser has given written approval or acceptance of the change; (c) if the purchaser's funds were obtained prior to the issuance of a Final Public Report and 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 (d) if the Final Public Report is not issued within one year from the date of issuance of the Preliminary Public Report.

The specimen Sales Contract filed with the Commission contains, among others, the following provisions:

1. "In the event less than sixty (60) apartments are sold prior to December 31, 1976, Seller may at its option cancel this Agreement, in which event Seller will cause Escrow to refund all monies paid by Buyer, without interest, and less Escrow's cancellation fee and Seller shall be relieved and released of all further liability hereunder."

2. "Buyer hereby agrees for the sole benefit of Seller that until Seller has closed out the sale of all the apartments in the condominium project or until December 31, 1977, whichever shall first occur, that Buyer will not enter into an agreement with any purchaser, lessee or owner of another apartment in the condominium project and/or any third party under which Buyer agrees to share expenses and/or rentals of apartments in the condominium project."

NOTE: Prospective purchaser 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 purchasers intentionally waive and subordinate the priority of lien under the sales contract in favor of the mortgage loan.

It is incumbent upon the purchaser and the prospective purchaser that he read with care the sales contract and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of residential apartments are placed in trust, as well as the retention and disbursement of said trust funds. The specimen Sales Agreement specifically provides that the purchaser approves said Escrow Agreement and assumes the benefits and obligations therein provided.

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 The McCormack Management Group, Ltd., a Hawaii corporation, as the initial managing agent.

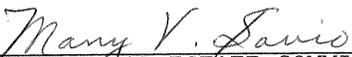
NOTE: Developer advises that no representation or references will be made to either purchasers or prospective purchasers concerning rental of the apartment, income from the apartment or any other economic benefit to be derived from the rental of the apartment, including but not limited to, any reference or representation to the effect that Developer or the Managing Agent of the project will provide, directly or indirectly, any services relating to the rental of the apartment. Rental of the apartments and the provisions 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 construction of the project will commence on May 17, 1976.

-----

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 March 12, 1976.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 849 filed with the Commission March 12, 1976. 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.

  
-----  
Member, REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:  
DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING COMMISSION, COUNTY OF MAUI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

REGISTRATION NO. 849  
April 19, 1976