

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

PALIULI

Hanalei, Kauai, Hawaii

REGISTRATION NO. 857

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: May 28, 1976
Expires: June 28, 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 APRIL 30, 1976, 1976, AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 21, 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. PALIULI is a fee simple condominium project consisting of ten (10) buildings, without basements, consisting of eight (8) apartments and sixteen (16) 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 or the Association of Apartment Owners and a copy of the approved Floor Plans) have been recorded in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime executed April 21, 1976, with By-Laws attached was recorded as aforesaid in Liber 11369, Page 1.

The approved Floor Plans showing the layout, location, apartment numbers, etc., have been designated Condominium File Plan No. 456.

4. Advertising and 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 Condominium Rules and Regulations which relate to Horizontal Property Regime.

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, May 28, 1976, unless a Final or Supplementary 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 PALIULI 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. Securing a signed copy of the Receipt for the Preliminary Horizontal Property Regime Public Report from each such person is also the responsibility of the Developer.

NAME OF PROJECT: PALIULI

LOCATION: The 2.177 acres of land committed to the regime is situated approximately 4,250 feet northeast from the intersection of Kuhio Highway and Honu Road at Hanalei, Halelea, Kauai, Hawaii.

TAX MAP KEY: Fourth Division: 5-4-005-015

ZONING: R-4 Residential

DEVELOPER: Theodore F. Wilson and Rosemary Wilson, husband and wife, P. O. Box 351, Hanalei, Kauai.

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

DESCRIPTION: The Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a fee simple

condominium project consisting of ten (10) buildings, without basements.

There are a total of eight (8) apartments located on the site of the project as shown on the condominium file plan and labeled as Cabin 1, Cabin 2, Cabin 3, Cabin 4, Cabin 5, Cabin 6, Cabin 7 and Cabin 8.

The apartments are built according to one basic floor plan, consisting of six (6) rooms located on one floor, including a living room, a kitchen, two (2) bedrooms, two (2) bathrooms, a terrace, a swimming pool, and an exterior entry; however, Cabins 1 and 2 have a furo in Bathroom No. 2, while Cabins 3, 4, 5, 6, 7 and 8 have a shower in place thereof in Bathroom No. 2. Each cabin consists of a floor area of approximately 1,337 square feet, including the terrace and swimming pool of approximately 341 square feet, and the exterior entry of approximately 70 square feet.

NOTE: IN ACCORDANCE WITH LOCAL PRACTICE, THE APPROXIMATE GROSS FLOOR AREA OF EACH APARTMENT AS SET FORTH ABOVE INCLUDES ALL OF THE WALLS AND PARTITIONS WITHIN ITS PERIMETER WALLS, AND THE ENTIRETY OF ITS PERIMETER WALLS.

The principal material used in the construction of the buildings is wood.

The apartments have immediate access to the grounds of the project.

The respective apartments shall not be deemed to include any pipes, 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 all the walls and partitions within its perimeter walls, all walls, floors, ceilings and roofs, doors and door frames, windows and window frames, the appurtenant terraces and swimming pools, and all fixtures originally installed therein.

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

1. The land in fee simple;
2. All yards, grounds and landscaping;
3. All roads, driveways and parking areas;
4. The maintenance/office building;
5. The carport;
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;

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 site of each apartment shall be appurtenant to and for the exclusive use of such apartment.

INTEREST TO BE CONVEYED TO PURCHASERS: Documents filed with the Real Estate Commission indicate that the purchaser will secure an Apartment Deed, conveying an apartment and an undivided twelve and one-half percent (12.5%) interest in all common elements of the project and the same proportionate share of all common profits and expenses of the project and shall be used for all other purposes including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The 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 thereto; provided, however, that no apartment owner may lease less than the entire apartment.

OWNERSHIP OF TITLE: A Certificate of Title issued April 6, 1976, by Long & Melone, Ltd., certifies that Developer is the fee simple owner of the property committed to the project. The Developer will issue individual apartment deeds directly to the purchasers.

ENCUMBRANCES AGAINST TITLE: A Certificate of Title issued April 6, 1976, by Long & Melone, Ltd., 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 Fourth Division, Island of Kauai, Hawaii.

2. Declaration of Restrictions, Covenants and Conditions by Eagle County Development Corporation, a Colorado corporation, dated March 1, 1971, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 7444, Page 93, as amended by instrument dated September 28, 1973, recorded as aforesaid in Liber 9546, Page 324.

NOTE: The Declaration provides that all apartment owners and any other persons or entities having a fee simple title to or 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.

3. Water and Sanitation Assessment Lien Agreement dated April 7, 1971, by and between Eagle County Development Corporation and Kauai County Public Improvement Corporation, recorded as aforesaid in Liber 7486, Page 292, as supplemented and amended.

4. Reservation in favor of Princeville Corporation of easements for electrical, telephone, communication, gas, sewer, water and drainage facilities over, under, across, along and through any easement area shown on File Plan No. 1350, together with the right to enter on the lot for the maintenance, repair and replacement of the facilities, together also with the right to grant to the State of Hawaii, County of Kauai, or any other governmental authority, or to any public utility corporation, Princeville at Hanalei Community Association, Kauai County Public Improvement Corporation or to any person, persons or corporation, easements for such purposes under such terms and conditions required by the Grantee or Grantees of such easements.

5. Reservation in favor of Princeville Corporation of easements for ingress and egress over and across the above described lot for the maintenance, repair and replacement of any drainage, water, sewer and utility facilities over, under, across, along and through any easement area shown on File Plan No. 1350 and affecting the lot, together with the right to grant to the State of Hawaii, County of Kauai or any other appropriate governmental authority, or to any public utility corporation, Princeville at Hanalei Community Association, Kauai County Public Improvement Corporation or to any person, persons or corporation, easements for such purposes under such terms and conditions required by the Grantee or Grantees of such easements.

6. Reservation in favor of Princeville Corporation of the right to grant roadway easements over and across any and all roadway lots shown on File Plan Nos. 1179, 1350 and 1360 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.

7. All easements shown of File Plan No. 1350, if any, affecting the land of the project.

8. Terms, covenants, conditions, restrictions, agreements and reservations contained in deed dated October 19, 1973, recorded as aforesaid in Liber 9560, Page 147.

9. That certain mortgage dated October 19, 1973, recorded as aforesaid in Liber 9562, Page 243, in favor of Princeville Corporation, to secure \$88,000.00; and assignment of promissory

note and mortgage dated October 19, 1973, recorded as aforesaid in Liber 9644, Page 422, in favor of Mortgage Trust of America, et al.

NOTE: The Developer advises that it proposes to grant utility easements over certain portions of the project in favor of Kauai Electric Division of Citizens Utilities Company and Hawaiian Telephone Company.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated April 6, 1976, between Bank of Hawaii, 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 six (6) 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. "It is expressly understood and agreed by and between Seller and Buyer that Buyer's apartment described in Paragraph "A" hereof will be conveyed to Buyer as is and that THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF THE APARTMENT FOR A PARTICULAR PURPOSE, involved in this sale."

3. "Buyer hereby agrees that until Seller has closed out the sale of all the apartments in the condominium project or until December 31, 1978, 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.

4. "Buyer understands and agrees that the apartment described in Paragraph "A" hereof will be conveyed to Buyer subject to that certain Water and Sanitation Assessment Lien Agreement dated April 7, 1971, by and between Eagle County Development Corporation, and Kauai County Public Improvement Corporation, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 7486, Page 292, as supplemented and amended, and that Buyer will be solely responsible for the payment of the assessments thereunder against said apartment."

5. 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 or sale 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.

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 trusts, 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 may be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible managing agent, but there is no requirement that a managing agent be appointed. At this time, the Developer proposes to act as the initial managing agent.

STATUS OF PROJECT: The Developer advises that it estimates construction of the project will be completed on October 1, 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 April 30, 1976.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 857 filed with the Commission April 30, 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.

Ad. Kaim Young
Member, 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. 857
May 28, 1976