

# 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  
EDEN AT HAIKU WOODS (Increment B)  
46-369 Haiku Road  
Kaneohe, Hawaii

REGISTRATION NO. 872

### 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: September 7, 1976  
Expires: October 7, 1977

#### 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION DATED AUGUST 10, 1976 AND INFORMATION SUBSEQUENTLY FILED AS OF AUGUST 31, 1976. 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 of October 8, 1973, on HAIKU WOODS, Registration No. 622, there have been material changes to the project. The project has been renamed and divided into two separate projects, to-wit: Eden at Haiku Woods (Increment A) and Eden at Haiku Woods (Increment B). This Final Public Report will cover only Eden at Haiku Woods (Increment B).

First Federal Savings and Loan Association of Hawaii, herein called "Owner", has advised the Commission that Eden at Haiku Woods (Increment B) is leasehold and consists of 13 residential units located in 3 three-story townhouse clusters with a total of 26 parking spaces.

NOTE: Eden at Haiku Woods (Increment A) is fee simple and consists of 74 residential units. A Final and Supplementary Report therefor has already issued (Registration 622).

2. This Final Public Report is made a part of the registration on EDEN AT HAIKU WOODS (INCREMENT B) condominium project, Registration No. 872. The Owner is responsible for placing this Final Public Report (white 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 and prospective purchaser is also the responsibility of the Owner.

3. The Owner of the project has submitted to the Commission for examination all documents deemed necessary for the issuance of this Final Public Report.
4. No advertising or promotional matter has been submitted.
5. The buildings have been totally completed as of this date.
6. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and the first amendment thereto, and a copy of the approved Floor Plans) have been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime, executed June 10, 1976, together with the By-Laws of Association of Apartment Owners, was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11546, Page 282, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 773918. The recording officer has designated Condominium Map No. 285 in the Land Court and Condominium Map No. 464 in the Bureau of Conveyances on July 21, 1976. On August 6, 1976, the first amendment of the Declaration of Horizontal Property Regime, and the By-Laws was recorded in said Bureau in Liber 11581 at Page 498 and filed in said Office as Document No. 776243.

7. 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.

8. This Final Public Report automatically expires thirteen (13) months after the date of issuance, September 7, 1976, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this Report.
9. This Final Public Report substitutes in its entirety the Preliminary Public Report issued October 8, 1973 on Haiku Woods, Registration No. 622.

NAME OF PROJECT: EDEN AT HAIKU WOODS, INCREMENT B.

LOCATION: The approximate 93,598 square feet of fee simple land committed to the regime is situated on the westerly side of Haiku Road and approximately 200 feet southwesterly of Holokua Place at Heeia, Koolaupoko, Oahu, Hawaii.

TAX MAP KEY: 4-6-17: 48

ZONING: R-6 and AG-1 under CZC of the City and County of Honolulu and designated as Planned Development-Housing District No. R-32 by Ordinance No. 4195 of the City and County of Honolulu.

DEVELOPER: FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF HAWAII, a Federal corporation, 851 Fort Street, Honolulu, Hawaii 96813.

ATTORNEY REPRESENTING DEVELOPER: John J. Hulten, Jr., Attorney at Law, A Law Corporation, Suite 310, 111 S. King Street, Honolulu, Hawaii 96813; telephone 536-2316.

DESCRIPTION: The Declaration of Horizontal Property Regime reflects that the project is to consist of thirteen (13) residential units contained in three (3) three-story buildings situated in one (1) building cluster. The project also includes a tot lot and 26 parking stalls.

IMPORTANT NOTE: The Declaration of Eden at Haiku Woods (Increment B) provides for the granting of rights in the nature of easements for the joint use of all of the common elements of the project, together with grants of easements for ingress and egress over, across and through the property included in this project; excluding, however, such common elements as shall be located within any residential structures. The Owner has advised the Commission that Eden at Haiku Woods (Increment A) has provided reciprocal type easements for the joint use of common elements of the project, excluding such common elements located within residential structures. The Owner has further advised that the two projects have separate independent associations of apartment owners, although common expenses with reference to the maintenance and servicing of the common elements will be shared in proportion to the number of units in the respective projects. The 74 owners of the fee simple units, Eden at Haiku Woods (Increment A), will be responsible for 85% of said common expenses and the remaining 15% will be the responsibility of the owners of the 13 leasehold units, which are contained in Eden at Haiku Woods (Increment B). It is anticipated that both associations will cooperate and work together in matters of mutual interest.

The Declaration contains language to implement this agreement and also provides that the owners of apartments in Eden at Haiku Woods Increment B will not amend the provisions of the Declaration relating to mutual easements or shared expenses vis a vis Eden at Haiku Woods, Increment A, nor vote to terminate the Horizontal Property Regime without the written consent of the owners of the fee simple interest of a majority of the apartments comprising Eden at Haiku Woods Increment A.

The Trustees of the Estate of Bernice Pauahi Bishop, as owner of the fee simple interest in and to the project, reserve for themselves and their successors and assigns of said fee interest, the right to effect a merger of the project into Eden at Haiku Woods Increment A, pursuant to Chapter 514 of the Hawaii Revised Statutes. The Trustees, for themselves and their successors and assigns of said fee interest, reserve the right to amend this Declaration without the consent of any of the owners or lessees of apartments in the project as is necessary to effect said merger; provided, however, that the net result of said merger shall be to incorporate the project into Eden at Haiku Woods Increment A, in the manner set forth in Paragraph B8 of the Declaration thereof, as amended, thereby constituting a total of 87 fee simple apartments and augmenting the common elements. In effecting the merger, the Trustees, or their successors or assigns, shall not change the definition of Apartments, or Common Elements, but may reduce the fractional interest in the common elements appurtenant to each apartment by no more than 85%, any such percentage reduction to be applied equally to each of the 13 apartments currently comprising the project.

The Purchaser is referred to the Declaration of Horizontal Property Regime of Eden at Haiku Woods Increment A dated August 28, 1975 filed as Land Court Document No. 733213 and recorded in the Bureau of Conveyances in Liber 10875, Page 70 and the Amendment thereto dated May 20, 1976 filed as Land Court Document No. 764938 and recorded in Liber 11417 at Page 230.

The First Amendment to the Declaration of Horizontal Property Regime for the project dated July 30, 1976, and filed as Land Court Document No. 776243 and recorded in the Bureau of Conveyances in Liber 11581 at Page 498 provides that Bishop Estate, the fee owner may amend the Declaration without the consent or joinder of any apartment lessee for the purpose of adding to the land comprising the project any or all of two adjacent parcels totaling 2,550 square feet.

The principal materials of which the apartment buildings are constructed are as follows: The ground floor slabs are poured reinforced concrete; the flooring above the ground floor, the parting walls between apartments are wood studs with stucco exterior and veneer plaster over imperial gypsum board to be used as interior wall sheathing; the stairs are wood frame; the cluster has a concrete parking garage; the interior walls consist of exposed heavy timber construction; all slope roofs are cedar shake and all flat roofing is built up.

There are two general types of apartments: two-bedroom and three-bedroom units. The total net area of living space (including lanais and open decks) is 1,524 to 1,556 square feet for two-bedroom units and 1,572 to 1,627 square feet for three-bedroom units, depending on the particular floor plan. The three-bedroom units consist of three (3) levels and the two-bedroom units are two-story townhouses built above the concrete garages. The following is a list of apartment numbers and number of bedrooms, enclosed living area and percentage of common interest appurtenant to each unit:

<u>APT. NO.</u>	<u>NO. OF BEDROOMS</u>	<u>ENCLOSED LIVING AREA</u>	<u>OPEN DECK (LANAI)</u>	<u>TOTAL AREA (NET)</u>	<u>PERCENTAGE OF COMMON INTEREST</u>
H-1	2	1,186	370	1,556	6.9036
H-2	2	1,170	354	1,524	6.7828
H-3	2	1,170	354	1,524	6.7828
H-4	2	1,186	370	1,556	6.9036
H-5	3	1,452	120	1,572	7.9158
H-6	3	1,507	120	1,627	8.1928
H-7	3	1,507	120	1,627	8.1928
H-8	3	1,507	120	1,627	8.1928
H-9	3	1,452	120	1,572	7.9158
H-10	3	1,452	120	1,572	7.9158
H-11	3	1,507	120	1,627	8.1928
H-12	3	1,507	120	1,627	8.1928
H-13	3	1,452	120	1,572	7.9158

NOTE: In computing percentage of common interest the open deck lanai spaces of two-bedroom units were given one half the weight of similar spaces in three-bedroom units because of the fact that all three-bedroom units have unfinished enclosed areas not reflected in the Enclosed Living Area.

LIMITS OF APARTMENTS. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceiling surrounding each apartment or any pipes, wires, conduits, or other utility 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 include adjacent lanais, as shown on said Condominium File Plan. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and the fixtures, originally installed therein, including built-in range-oven, refrigerator, disposal, water heater, dishwasher, washer and dryer.

COMMON ELEMENTS: One freehold estate is hereby designated in all of the remaining portions and appurtenances of the project, herein called the "common elements", including specifically, but not limited to: (a) said land in fee simple; (b) all foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter and load-bearing walls, roofs, and walkways around and between said buildings; (c) all yards, grounds, landscaping, mail boxes, refuse and like facilities; (d) all driveways and parking areas; (e) all ducts, sewer lines, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities, installations for services including power, light, water, gas, air conditioning, refuse, telephone and radio and television signal distribution; (f) tot lot; and (g) any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance or safety, or normally in common use.

NOTE: Grants of easements for ingress and egress and the right to the use of common elements in the parcel of land covered in this registration during the period of the leasehold shall be given to any purchaser, purchasers, lessee, lessees, owner or owners of the seventy-four (74) residential leasehold units in the adjoining property. Likewise Purchasers in this project have been given easements for ingress and egress and the right to use of the common elements of Eden at Haiku Woods, Increment A.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows: (a) Two (2) parking spaces so designated on said Condominium Map by the number corresponding to the number of each apartment shall be appurtenant to and for the exclusive use of such apartment, upon the original conveyance thereof; provided, however, that the exclusive easement to the use of said parking spaces may be transferred from apartment to apartment in the project and such transfer of parking spaces between apartments shall be effective only upon recording of an instrument in said Bureau setting forth said transfer and executed by the apartment owners and the Trustees; and (b) all other common elements of the project which are rationally related to less than all of said apartments (or buildings) shall be limited to the use of such apartments (or buildings).

INTEREST TO BE CONVEYED TO PURCHASER: The Declaration reflects that each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project and the same proportionate share in all common profits and expenses of the project, except as otherwise provided in the Declaration and for all other purposes including voting. Each purchaser will be issued a lease by Bishop Estate ending June 30, 2031 demising the respective apartment and appurtenant common interest.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration reflects that 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. The apartments shall not be rented for transient or hotel purposes but the owners of the respective apartments shall have absolute right to lease such apartments subject to all the provisions of the Declaration.

OWNERSHIP TO TITLE: A certificate of title issued by Title Guaranty of Hawaii, Inc. on June 16, 1976 shows title to the land is vested in Frank E. Midkiff, Richard Lyman, Jr., Hung Wo Ching, Matsuo Takabuki and Myron B. Thompson, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased.

ENCUMBRANCES: The certificate of title dated June 16, 1976, issued by Title Guaranty of Hawaii, Inc. as submitted to the Commission, shows that the property is presently subject to:

1. For any taxes that may be due and owing reference is made to the Office of the Tax Assessor, First Division.
2. -AS TO LOT 1196-G OF PARCEL FIRST ONLY:-
  - (a) The free flowage of water in Haiku-Heeia Stream and the stream from Iolekaa which empties into said Haiku-Heeia Stream and the other streams and auwais over and across said lot, without prejudice to existing water rights as shown on Maps 1 and 62 of Land Court Application No. 1100.
  - (b) Easement "4" for waterline purposes.
3. -AS TO PARCEL SECOND ONLY:- Reservation in favor of the State of Hawaii of all mineral and metallic mines.

4. -AS TO LOTS 1196-E AND 1196-G OF PARCEL FIRST AND ALL OF PARCEL SECOND ONLY:-

(a) The terms and conditions contained in that certain Lease No. 23,350-A, dated July 12, 1974, filed as Land Court Document No. 690066 and also recorded in Liber 10038 at Page 329, entered into by and between the Trustees of the Estate of Bernice Pauahi Bishop, "Owners", and Kihalani Investment, Inc., a Hawaii corporation, "Tenant", as Lessors, and Harry C. Uhler Development, Inc., a Hawaii corporation, Doug Carty, Inc., (formerly known as Doug Carty Realty, Inc.), a Hawaii corporation, and Mahinui Estates, Inc., a Hawaii corporation, which corporations are associated in a joint venture known as "Haiku Woods Joint Venture", as Lessees; leasing and demising said premises for a term of fifty-seven (57) years commencing on July 1, 1974 to and including June 30, 2031. Said Lease was assigned to First Federal Savings and Loan Association of Hawaii, a Federal corporation, by Instrument dated April 12, 1976, filed as Document No. 762035 and also recorded in Liber 11372 at Page 462.

(b) Covenants, Agreements and Reservations contained in Instrument dated May 19, 1976, filed as Document No. 764938 and also recorded in Liber 11417 at Page 230.

(c) Agreement to merger of Eden at Haiku Woods Increments A and B, as set forth in said Instrument filed as Document No. 764938 and also recorded in Liber 11417 at Page 230.

5. The Terms and Conditions contained in that certain Lease No. 23,350, dated July 11, 1974, filed as Document No. 689947 and also recorded in Liber 10036 at Page 516, entered into by and between the Trustees of the Estate of Bernice Pauahi Bishop, as Lessors, and Kihalani Investment, Inc., a Hawaii corporation, as Lessee; leasing and demising the premises described therein for a term of twenty-seven (27) years commencing on July 1, 1974.

6. INSTRUMENT : Circuit Court Judgment  
PLAINTIFF : Ecol, Inc.  
DEFENDANT : Doug Carty, Inc., formerly known as Doug Carty Realty, Inc., and Douglas McDonell Carty  
DATED : March 5, 1976  
AMOUNT : \$20,312.00, together with interest at the rate of six percent (6%) per annum from the date of entry of judgment herein  
FILED : Circuit Court of the First Circuit, State of Hawaii, S. P. No. 4047, on March 8, 1976  
RECORDED : Liber 11280 Page 480 in the Bureau of Conveyances on March 8, 1976

7. NOTICE OF STATE OF HAWAII TAX LIEN (DEPARTMENT OF TAXATION):

AGAINST : Doug Carty Realty, Inc.  
DATED : January 5, 1976  
RECORDED : Liber 11157 Page 467  
AMOUNT : \$6,924.34

8. NOTICE OF STATE OF HAWAII TAX LIEN (DEPARTMENT OF TAXATION):

AGAINST : Mahinui Estates  
DATED : January 5, 1976  
RECORDED : Liber 11157 Page 472  
AMOUNT : \$6,924.34

The Owner advises the Commission that title insurance has been obtained insuring against the validity of items 6, 7 & 8 above.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated August 10, 1976, identifies Title Guaranty Escrow Services, Inc., a Hawaii corporation, as escrow agent. The Escrow Agreement establishes how the proceeds from the sale of dwelling units and all sums received from any source are placed in trust as well as establishing the retention and disbursement of said trust funds. On examination, the specimen Contract of Sale and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Chapter 514, and particularly Hawaii Revised Statutes, Section 514-35 and Section 514-36 through Section 514-40.

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 hereunder by Escrow; or,
- (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; or,
- (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 a purchaser's funds were obtained prior to the issuance of a Final Public Report and the request is prior to the time the Final Public Report is issued; or,
- (e) If the Final Public Report is not issued within one year from the date of issuance of the Preliminary Public Report.

Upon refund of said funds to purchaser as aforesaid, Escrow shall return to Seller such purchaser's sales contract and any apartment lease theretofore delivered to Escrow, and thereupon neither the purchaser nor Seller shall be deemed obligated thereunder.

The specimen Contract of Sale states in part, (1) that the terms of the Escrow Agreement are made a part of the Contract of Sale by reference; (2) that until Seller has closed out the sale of all the apartments in the project, or until December 31, 1977, whichever shall occur first, Buyer will not enter into an agreement with any owner of another apartment in the project and/or any third party under which Buyer agrees to share expenses and/or rentals of apartments in the project; and (3) that the property is subject to restrictive conditions imposed by Ordinance No. 4195 of the City and County of Honolulu attached as Exhibit "B" to the Declaration.

It is incumbent upon the purchaser and prospective purchaser that he read with care the Contract of Sale and the executed Escrow Agreement.

MANAGEMENT AND OPERATIONS: The By-Laws of the Association provide that the Board of Directors shall annually employ a responsible Hawaii corporation as Managing Agent to manage and control the project subject at all times to direction by the Board. Owner has entered an agreement with Tropic Shores Realty, Ltd., as Managing Agent and has filed an executed copy of this agreement with the Commission.

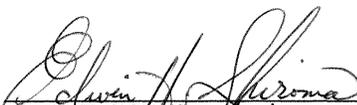
STATUS OF PROJECT: The project has been completed and a copy of the affidavit of publication of the notice of completion dated February 23, 1976 has been filed with the Commission.

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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 dated August 10, 1976.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 872 filed with the Commission.

This report, when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles, the paper stock shall be white in color.

(for)   
AH KAU YOUNG, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

- DEPARTMENT OF TAXATION
- BUREAU OF CONVEYANCES
- PLANNING DEPARTMENT, CITY & COUNTY OF HONOLULU
- ESCROW AGENT
- FEDERAL HOUSING ADMINISTRATION

Registration No. 872

September 7, 1976.