

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII  
1010 RICHARDS STREET  
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HONOLULU, HAWAII 96801

## FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on  
NIHI KAI VILLAS  
(formerly NIHI KAI)  
Pee, Maa, Hoone and Nalo Roads  
Koloa, Kauai, Hawaii

REGISTRATION NO. 923

### 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: June 5, 1978  
Expires: July 5, 1979

#### 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 JUNE 22, 1977, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF MAY 30, 1978. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514A, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report on NIHI KAI, Registration No. 923, dated July 27, 1977, the Developer has prepared, assembled and forwarded additional information relating to the project.

In particular, the Developer has notified the Commission that the name of the project has been changed from "NIHI KAI" to "NIHI KAI VILLAS", and that the apartments will be sold in fee simple rather than on a leasehold bases.

This Final Public Report is made a part of the registration on the Nihi Kai Villas condominium project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers along with a copy of the Preliminary Public Report (yellow paper stock). Securing a signed copy of the Receipt for the Horizontal Property Regime Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for registration of a condominium project and issuance of this Final Public Report.
3. The advertising and promotional matter utilized in connection with the project has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of 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, dated May 18, 1978, together with the By-Laws of the Association of Apartment Owners, was recorded in the Bureau of Conveyances in Liber 12907, Page 679, and the Condominium plans have been recorded in said Bureau as Condominium Map No. 542.

5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, June 5, 1978, unless a Supplementary Public Report issues or the Commission, upon review of the Registration, issues an order extending the effective period of this report.

Except for the topical headings which follow, the information contained in the Preliminary Public Report of July 27, 1977 remains unchanged. The topical heading of PROGRAM OF FINANCING has been added.

NAME OF PROJECT: NIHI KAI VILLAS

DESCRIPTION OF PROJECT: The recorded Declaration of Horizontal Property Regime describes the project as follows:

1. Description of Buildings. The buildings of the project will consist of ten (10) buildings containing a total of seventy (70) residential units (hereinafter called "apartments"), which buildings are designated herein and on said Condominium Map as Buildings 1 through 10, inclusive, and are more particularly described as follows:

(a) Building "1" will be a one-story structure containing two (2) apartments.

(b) Buildings "2", "3" and "6" will be two-story structures each containing four (4) split-level apartments.

(c) Buildings "4" and "5" will be three-story structures containing, respectively nine (9) and eighteen (18) apartments. Building "4" shall have six (6) split-level apartments on the first two floors and three (3) apartments on the third floor while Building "5" will contain twelve (12) split-level apartments on the first two floors and six (6) apartments on the third floor.

(d) Building "7" will be a two-story structure containing six (6) split-level apartments.

(e) Building "8" will be a four-level structure (the ground floor of which is subgrade) containing six (6) split-level apartments on the ground floor and second floor, five (5) apartments on the second floor, eight (8) apartments on the third floor and four (4) apartments on the fourth floor.

(Note: The Preliminary Public Report erroneously reported that there shall be eight (8) apartments on the fourth floor and failed to indicate any apartment on the third floor.)

(f) Building "9" and "10" will be recreational buildings located adjacent to the swimming pool and tennis courts, respectively. Building "9" will contain pool equipment, sewage plant equipment, storage areas, shower and lavatory facilities, and Building "10" will be an open-sided pavilion.

Each of the buildings will be primarily wood-frame construction with monier tile roofs and said buildings shall also incorporate glass, aluminum, gypsum board and allied building materials. In addition to said buildings, the project will also contain a swimming pool, two (2) tennis courts, a paddle tennis court and a parking area providing one hundred five (105) parking spaces.

2. Description of Apartment. The project is divided into seventy (70) separately designated condominium apartments as more particularly described hereinbelow and on said Condominium File Plan. The numbering, type, approximate gross area in square feet, number of rooms, appurtenant parking stall and appurtenant common interest of said apartments are as follows:

<u>Apartment No.</u>	<u>Floor Plan Type</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Parking Stall No.</u>	<u>Common Interest</u>
<u>Building 1</u>						
100	C3	1,527	371	7	4	1.69086
101	C3	1,527	371	7	2	1.69086
<u>Building 2</u>						
200	G	1,472	349	6	3	1.62227
201	H	1,221	286	6	1	1.34254
202	H	1,221	286	6	26	1.34254
203	G	1,472	349	6	25	1.62227
<u>Building 3</u>						
300	G	1,472	349	6	24	1.62227
301	H	1,221	286	6	22*	1.34254
302	H	1,221	286	6	20	1.34254
303	G	1,472	349	6	18	1.62227
<u>Building 4</u>						
400	G	1,472	349	6	14	1.62227
401	H	1,221	286	6	12	1.34254
402	H	1,221	286	6	10*	1.34254
403	H	1,221	286	6	8*	1.34254
404	H	1,221	286	6	7*	1.34254
405	G	1,472	349	6	9	1.62227
420	A2	1,531	293	6	11	1.66949
421	B2	1,279	228	6	13	1.34253
422	A2	1,531	293	6	17	1.66949
<u>Building 5</u>						
500	G	1,472	349	6	68	1.62227
501	H	1,221	286	6	67	1.34254
502	H	1,221	286	6	66	1.34254
503	H	1,221	286	6	65	1.34254
504	H	1,221	286	6	61	1.34254
505	H	1,221	286	6	59	1.34254

\*Denotes compact stalls

<u>Apartment No.</u>	<u>Floor Plan Type</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Parking Stall No.</u>	<u>Common Interest</u>
506	H	1,221	286	6	57*	1.34254
507	H	1,221	286	6	55	1.34254
508	H	1,221	286	6	52	1.34254
509	H	1,221	286	6	50	1.34254
510	H	1,221	286	6	48	1.34254
511	G	1,472	349	6	46	1.62227
520	A2	1,531	293	6	42	1.66949
521	B2	1,279	228	6	40	1.34253
522	B2	1,279	228	6	38	1.34253
523	B2	1,279	228	6	32	1.34253
524	B2	1,279	228	6	30	1.34253
525	A2	1,531	293	6	28	1.66949
<u>Building 6</u>						
600	G	1,472	349	6	64	1.62227
601	H	1,221	286	6	62	1.34254
602	H	1,221	286	6	60	1.34254
603	G	1,472	349	6	58	1.62227
<u>Building 7</u>						
700	G	1,472	349	6	53	1.62227
701	H	1,221	286	6	51*	1.34254
702	H	1,221	286	6	49	1.34254
703	H	1,221	286	6	47	1.34254
704	H	1,221	286	6	43	1.34254
705	G	1,472	349	6	41	1.62227
<u>Building 8</u>						
800	E	1,451	471	6	103	1.71224
801	B1	1,264	227	6	102	1.32829
802	F	1,255	405	6	97	1.47884
803	D	792	168	4	96	0.85523
804	F	1,255	405	6	95	1.47884
805	B1	1,264	227	6	88	1.32829
806	F	1,255	405	6	85	1.47884
807	D	792	168	4	86	0.85523
808	F	1,255	405	6	78	1.47884
809	B1	1,264	227	6	77	1.32829
810	E	1,451	471	6	71	1.71224
820	C1	1,517	291	7	104	1.61070
821	B1	1,264	227	6	94	1.32829
822	B1	1,264	227	6	91	1.32829
823	B1	1,264	227	6	90	1.32829
824	B1	1,264	227	6	83	1.32829
825	B1	1,264	227	6	82	1.32829
826	B1	1,264	227	6	79	1.32829
827	A1	1,517	291	6	70	1.61070
830	B1	1,264	227	6	93	1.32829
831	B1	1,264	227	6	92	1.32829
832	B1	1,264	227	6	81	1.32829
833	B1	1,264	227	6	80	1.32829

\*Denotes compact stalls

There are a total of 105 parking stalls, of which 19 are compact stalls. The compact stalls are numbered 7, 8, 10, 15, 16, 22, 27, 33, 39, 45, 51, 57, 63, 69, 74, 84, 89, 101 and 105.

All areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls, and no reduction has been made to account for interior walls, ducts, vent shafts and the like located within the perimeter walls.

3. Types of Apartments.

(a) The two (2) apartments designated as Types "A1" and "C-1" hereinabove are end units situated on the third floor of Building "8". Each of said apartments will contain an entry foyer and two bathrooms, a living/dining room, and a kitchen; however, the "A-1" unit will have two bedrooms and a total of six (6) rooms and the "C-1" unit will have three bedrooms and a total of seven (7) rooms. Each of said unit shall also have a lanai area.

(b) Each of the four (4) apartments designated as Type "A2" hereinabove will contain an entry foyer and six (6) rooms consisting of specifically of two bedrooms, two bathrooms, a living/dining room, and a kitchen. Each such unit shall also contain a lanai area.

(c) Each of the thirteen (13) apartments designated as Type "B1" hereinabove will contain an entry foyer and six (6) rooms consisting specifically of two bedrooms, two bathrooms, a living/dining room, and a kitchen. Each such unit shall also contain a lanai area.

(d) Each of the five (5) apartments designated as Type "B2" hereinabove will contain an entry foyer and six (6) rooms consisting specifically of two bedrooms, two bathrooms, a living/dining room, and a kitchen. Each such unit shall also contain a lanai area.

(e) The two (2) apartments designated as Type "C3" hereinabove are located in Building "1" and each apartment will contain an entry foyer and seven (7) rooms consisting specifically of three bedrooms, two bathrooms, a living/dining room, and a kitchen. Each such unit shall also contain a lanai area and an enclosed storage area adjacent thereto.

(f) The two (2) apartments designated as Type "D" hereinabove are interior units situated on the second floor of Building "8". Each apartment will contain an entry foyer and four (4) rooms consisting specifically of one bedroom, one bathroom, a living/dining room, and a kitchen. Each such unit shall also contain a lanai area.

(g) The two (2) apartments designated as Type "E" hereinabove are split-level end units located on the first and second floors of Building "8". Each apartment will contain six (6) rooms consisting specifically of two bedrooms and two bathrooms located on the lower floor and a kitchen, living/dining room, and a den area on the upper floor. Each unit shall also contain an entry foyer on the upper level and lanai areas on the upper and lower levels.

(h) Each of the four (4) apartments designated as Type "F" hereinabove is a split-level interior unit located on the first and second floors of Building "8". Each apartment will contain six (6) rooms consisting specifically of two bedrooms and two bathrooms on the lower level and a kitchen and living/dining room on the upper level. Each unit shall also contain an entry foyer on the upper level and lanai areas on the upper and lower levels.

(i) Each of the twelve (12) apartments designated as Type "G" hereinabove is a split-level unit located on the first and second floors of its respective building. Each apartment will contain six (6) rooms consisting specifically of two bedrooms and two bathrooms on the lower level and a kitchen and living/dining room located on the upper level. Each such unit shall also contain an enclosed storage area and an entry foyer on the upper level and lanai areas adjacent thereto on the upper and lower levels.

(j) Each of the twenty-four (24) apartments designated as Type "H" hereinabove shall contain six (6) rooms situated throughout a split-level interior unit located on the first and second floors of its respective building. Each apartment shall consist of two bedrooms and two bathrooms on the lower level and a kitchen and living/dining room on the upper level. Each unit shall also contain an entry foyer on the upper level and lanai areas adjacent thereto on the upper and lower levels.

4. Access. Each apartment has immediate access to its entries and to the walkways, corridors and the stairway(s), if any, appurtenant to such apartment connecting its building to the walkways leading to the parking and recreational areas of the project.

5. 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 ceilings surrounding each apartment, 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. Subject to the foregoing, each apartment shall include all of the walls and partitions which are not load-bearing within its perimeter walls, any glass windows or panels within its perimeter, the inner decorated or finished surfaces of all walls, floors and ceilings, all adjacent lanais, and any fixtures and appliances originally installed therein.

NOTE: The Developer has advised that the following changes have been made in construction materials and/or design, as shown on or represented in the plans and promotional materials filed with the Commission:

(1) Redwood will not be utilized for exterior siding as the ceilings of top floor units;

(2) The drywall on each side of double walls will be reduced from 1" to 5/8"; and

(3) Ice makers will be added to all refrigerators.

INTEREST TO BE CONVEYED TO PURCHASERS: The percentage interest in all common elements of the project appurtenant to each apartment is set forth under the topical heading "Description" hereinabove. The Developer reports that the project will be a fee simple rather than a leasehold condominium project. Accordingly, each apartment and its appurtenant common interest shall be conveyed to apartment purchasers by way of an apartment deed.

ENCUMBRANCES AGAINST TITLE: A Preliminary Title Report, dated April 25, 1978, issued by Title Guaranty of Hawaii, Inc. identifies the following encumbrances on the land:

1. For any real property taxes that may be due and owing, reference is hereby made to the Office of the Tax Assessor, Fourth District.

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

3. Agreement of Sale dated August 1, 1969, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 6623, Page 384, made by and between Alma Kuulei Zalopany (aka Alma K. Zalopany) and Leonard H. Zalopany, wife and husband, and Poipu Shores, Inc., a Hawaii corporation, as vendor, and Ma-Ka-Poi Ventures, a Hawaii limited partnership, as vendee.

4. Mortgage dated December 31, 1973, recorded in said Bureau as aforesaid in Liber 9678, Page 391, made by Poipu Shores, Inc., a Hawaii corporation, and Leonard H. Zalopany and Alma Kuulei Zalopany (aka Alma K. Zalopany), husband and wife, as mortgagor, to First Hawaiian Bank, a Hawaii corporation, a mortgagee, to secure the repayment of the sum of \$200,000.00.

5. As to Parcel First only (Tax Map Key No. 2-8-19-22):

(a) An easement 20 feet wide for road and utility purposes; and

(b) A six feet lane situate along the easterly boundary of Lot 1, as shown on the tax map.

NOTE: The Developer reports that under its existing financial arrangements it will not acquire fee simple title to the property until the funding of its interim construction loan. A copy of its loan commitment with American Savings and Loan Association has been furnished to the Commission. To facilitate the issuance of this Final Public Report (which

is a precondition to the funding of the construction loan), A&Z Corporation, the present fee owner, and Ma-Ka-Poi Ventures, the present holder of the vendee's interest under the Agreement of Sale described hereinabove, have executed the Declaration for the purpose of submitting their respective interests therein to the Horizontal Property Regime. However, purchasers should be cognizant that the recorded Declaration expressly provides that the Nihi Kai Villas project is the consequence of a development undertaken solely by Developer and that said Fee Owner and Vendee have not exercised any control over or responsibility for said project, and shall not be responsible for any claims or liabilities arising therefrom.

MANAGEMENT OF PROJECT: The Developer has not yet entered into a management agreement for the project and anticipates that the Managing Agent will be designated at a later date.

STATUS OF PROJECT: Construction of the project will commence on or about June 15, 1978, pursuant to a construction contract with Morrison-Knudsen, Ltd., dated May 19, 1978, and is expected to be completed within one year thereafter. A copy of said construction contract has been filed with the Commission.

PROGRAM OF FINANCING: The Developer has complied with the provisions of Section 514A-40, Hawaii Revised Statutes, by filing with the Commission the following:

1. Developer's verified statement of the total development cost.
2. Developer's verified estimated completion date of the entire project, which is to be on or about July 1, 1979.
3. Copies or satisfactory evidence of executed construction contracts and bonds therefor as follows:

(a) Agreement dated May 19, 1978 between Nihi Kai Associates, a partnership, and Morrison-Knudsen Company, Inc., a Delaware corporation.

(b) A performance bond for the construction dated May 19, 1978, issued by Fidelity and Deposit Company of Maryland, as surety, and Morrison-Knudsen Company, Inc., as principal.

The bond is in the amount of not less than 100% of the construction contract price.

4. The commitment letters indicate that American Savings and Loan Association shall provide the construction loan and permanent loan for the project.

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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 submitted June 22, 1977, and additional information subsequently filed as of May 30, 1978.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 923 filed with the Commission on June 22, 1977. This report, when reproduced, shall be a true copy of the Commission's Final 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

Distribution: Department of Taxation  
Bureau of Conveyances  
Planning Department, County of Kauai  
Federal Housing Administration  
Escrow Agent

Registration No. 923  
June 5, 1978