

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

1010 RICHARDS STREET  
P. O. BOX 3469  
HONOLULU, HAWAII 96801

## SUPPLEMENTARY 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

### **This Report Is Not an Approval or Disapproval of This Condominium Project**

It was prepared as a supplement to an earlier Report dated \_\_\_\_\_ issued  
by the Real Estate Commission on the above 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 Condo-  
minium 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 14, 1979  
Expires: October 4, 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 INFORMATION  
SUBSEQUENTLY FILED AS OF SEPTEMBER 10,  
1979. THE DEVELOPER, BY NOTIFYING THE  
COMMISSION OF ITS INTENTION TO SELL AND  
REPORTING CHANGES IN THE PROJECT, IS  
COMPLYING WITH THE REQUIREMENTS OF THE  
HORIZONTAL PROPERTY ACT, CHAPTER 514A,  
HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report of July 27, 1977 and Final Public Report of June 5, 1978 on the NIHI KAI VILLAS condominium project, the Developer reports that changes have been made in the plan or set-up as represented in the June 22, 1977 Notice of Intention.

The changes subsequently made are determined to be a material revision to the information disclosed earlier. This Supplementary Public Report (pink paper stock) amends the Preliminary Public Report (yellow paper stock) and Final Public Report (white paper stock), becoming a part of Registration No. 923. The Developer is responsible for placing a true copy of this Supplementary Public Report in the hands of all purchasers or prospective purchasers, along with a copy of the Preliminary and Final Public Reports. It is also the responsibility of the Developer to obtain the required receipts signifying that the purchaser has had an opportunity to read all reports.

2. As disclosed in the Preliminary and Final Public Reports, the original developer of the project was Nihi Kai Associates, a general partnership comprised of Messrs. Eugene N. Evanetz and Paul Mitchell. The Commission has been advised that the original developer has conveyed all of its right, title and interest in and to the project to a new general partnership, also known as "Nihi Kai Associates", which consists of two corporations owned and controlled by Messrs. Evanetz and Mitchell

3. A First Amendment to Declaration of Horizontal Property Regime of Nihi Kai Villas, dated June 29, 1978 was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12991 at Page 136 for the purposes of reflecting a consolidation of the various parcels comprising the land of the project.

4. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for registration of the Project and the updating of information disclosed therein.

5. The advertising and promotional material utilized in connection with the project has been submitted pursuant to the rules and regulations promulgated by the Commission.

6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the rules and regulations promulgated thereunder which relate to horizontal property regimes.

7. The Developer has requested and the Commission has granted an extension of the Final Public Report to expire October 4, 1979 unless another Supplementary Public Report issues, or the Commission, upon review of the registration, issues an order extending the period of the report.

Except for the topical headings which follow, the information contained in the Preliminary Public Report of July 27, 1977 and the Final Public Report of June 5, 1978 has not been disturbed.

LOCATION: The recorded First Amendment of the Declaration reflects that the land of the project, as consolidated, contains 5.975 acres.

DEVELOPER: NIHI KAI ASSOCIATES, a Hawaii general partnership whose post office address is P. O. Box 638, R.R. #1, Koloa, Kauai, Hawaii. The general partners of such partnership are the following companies incorporated under the laws of the Province of British Columbia, Canada:

Evanetz Investments Ltd.  
Beach Avenue, R.R. #2  
Gibsons, B.C., Canada

Merlin Development Corporation  
#D-1903, South Vernon Road  
Vernon, B.C., Canada

OWNERSHIP OF TITLE: A Preliminary Title Report dated September 6, 1979, issued by Title Guaranty of Hawaii, Inc., discloses that fee simple title to the land is vested in Nihi Kai Associates, a Hawaii general partnership. However, as indicated above, the land and other assets of the project have been conveyed by the original developer to a new general partnership, also known as "Nihi Kai Associates", consisting of two corporations owned and controlled by Messrs. Evanetz and Mitchell. A Deed in confirmation of said transfer was recorded on August 27, 1979, in Liber 13942, at Page 414, and a copy has been furnished to the Commission.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report mentioned above identifies the following encumbrances on the land:

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

2. An easement 20-feet wide for road and utility purposes designated as Easement "R-1".

3. A 6-foot lane situate along the Easterly boundary of Lot 3.

4. Covenants, conditions, restrictions, easements, reservations and all other provisions set forth in Declaration of Horizontal Property Regime dated May 18, 1978, recorded in the Office of the Registrar of Conveances at Honolulu in Liber 12907, at Page 679 and the By-Laws attached thereto. (Project covered by Condominium Map No. 542, amended.) Said Declaration was amended by instrument dated June 29, 1978 and recorded in Liber 12991 at Page 136.

5. Easement "A" for water line purposes, Easement "B" for drainage purposes and Easements "C" and "D" for water meter purposes, all shown on map prepared by Masao Fujishige, dated October 13, 1977, of which a copy is attached to First Amendment to Declaration of Horizontal Property Regime, dated June 29, 1978, recorded in Liber 12991 at Page 136.

6. Mortgage, Security Agreement and Financing Statement, dated June 29, 1978, recorded in the Bureau of Conveances of the State of Hawaii in Liber 12991, Page 146, made by and between Nihi Kai Associates, a Hawaii general partnership, as Mortgagor, and American Savings and Loan Association, a Utah corporation, as Mortgagee.

7. Purchase Money Mortgage and Financing Statement, dated June 29, 1978, recorded in said Bureau as aforesaid in Liber 12991, Page 166, made by and between Nihi Kai Associates, a Hawaii general partnership, as Mortgagor, and Ma-Ka-Poi Ventures, a Hawaii limited partnership, as Mortgagee.

By Subordination Agreement dated June 29, 1978 and recorded in Liber 12991 at Page 205, said above Purchase Money Mortgage and Financing Statement was subordinated to the lien of that certain Mortgage, Security Agreement and Financing Statement recorded in Liber 12991 at Page 146.

8. For any taxes that are due and owing. Reference is made to the Office of the Tax Assessor, Fourth Division.

9. Right-of-entry in favor of Hawaiian Telephone Company and Citizens Utilities Company, dated November 22, 1978 and recorded in Liber 13785 at Page 458; granting a right-of-entry and temporary easement for construction and maintenance of power and communication lines over and across the premises.

10. Right-of-entry in favor of Citizens Utilities Company, a Delaware corporation, dated October 23, 1978 and recorded in Liber 13785 at Page 462; granting a right-of-entry and temporary easement for construction and maintenance of power and communication lines over and across the premises.

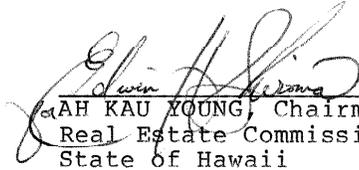
MANAGEMENT OF PROJECT: The Commission has been furnished with a copy of an executed Management Agreement, dated August 20, 1979 which reflects that Certified Management, 98-1238 Kaahumanu Street, Pearl City, Hawaii, has been appointed as the initial managing agent of the project.

STATUS OF PROJECT: It is anticipated that construction of the project will be completed on or about September 15, 1979.

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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 information subsequently filed as of September 10, 1979.

This is a SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT, which 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 Public Report. The paper stock used in making facsimiles must be pink.

  
ALAN KAU YOUNG, Chairman  
Real Estate Commission  
State of Hawaii

Distribution:

Department of Taxation  
Bureau of Conveyances  
Planning Department,  
County of Kauai  
Federal Building Administration  
Escrow Agent

Registration No. 923

September 14, 1979