

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
PAKI MAUI III
Honokowai, Lahaina, Maui, Hawaii

REGISTRATION NO. 926

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: March 23, 1978
Expires: April 23, 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED JULY 7, 1977, AND INFORMATION SUBSEQUENTLY FILED AS OF March 16, 1978. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, HAWAII REVISED STATUTES, CHAPTER 514A.

1. Since the issuance of the Commission's Preliminary Public Report of August 5, 1977, the Developer reports that changes have been made in the plan or setup of the project. The

changes subsequently made are determined to be a material addition to the information disclosed earlier.

2. The Developer of the project has submitted to the Commission for examination all of the documents deemed necessary for the registration of a condominium project and the issuance of this Final Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime and the Bylaws have been recorded in the Bureau of Conveyances of the State of Hawaii in Book 12705, Page 573, and that the Condominium Map has been recorded as Condominium File Plan No. 531.
4. Advertising or promotional materials have been submitted to the Commission pursuant to its rules and regulations.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Hawaii Revised Statutes, Chapter 514A, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to the Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, March 23, 1978, unless a Supplementary Public Report issues, or the Commission, upon review of registration, issues an order extending the effective date of this report.
7. This Final Public Report is made a part of the registration of the PAKI MAUI III condominium project. The Developer has the responsibility of placing a true copy of 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), and securing a signed copy of the receipt for both the Final Public Report and Preliminary Public Report from each purchaser.

The information in the topical headings of the Preliminary Public Report of August 5, 1977, has not been disturbed except for the following topical headings: OWNERSHIP OF TITLE, ENCUMBRANCES, PURCHASE MONEY HANDLING, MANAGEMENT AND OPERATION, and STATUS OF PROJECT.

NAME OF PROJECT: PAKI MAUI III

OWNERSHIP OF TITLE: The Developer has filed with the Commission a Preliminary Title Report, dated February 23, 1978, prepared by First American Title Company of Hawaii, Inc., which certifies that fee title to the land committed to this regime is vested in the following persons as tenants in common: Robert O. Coates and Charlene G. Coates (1/10th interest); Chris C. Reynolds, M.D. and Barbara J. Reynolds (3/10ths interest); Margaret Ann Ritchie (1/10th interest); Beverley A. Vozenilek, special co-trustee of a certain irrevocable short-term trust agreement dated December 21, 1977 (1/10th interest); Ernest E. Banfield, John R. Alger, and James R. Stilwell, Trustees under Trust Agreement dated January 18, 1972, accompanying the Profit Sharing Plan of Plastic Surgeons Northwest, Inc., P.S. dated January 18, 1972 (3/10th interest); and Milan Pazourek and Helen Pazourek, Trustees of Milan Pazourek, M.D., P.S., Inc. Employee's Pension Trust Union Agreement dated February 29, 1972, as amended and restated March 1, 1976 (1/10th interest) (hereinafter collectively referred to as the "Owners").

ENCUMBRANCES: The Preliminary Title Report prepared by First American Title Company of Hawaii, Inc. states that as of the date of the search (February 23, 1978), title to the property is subject to:

1. Real property taxes for the current year. For more information check with the Tax Assessor, Second Division.
2. A lease between the Owners and Honokowai Maui Partnership, dated August 9, 1972, which lease was originally executed by the Trustee of the Hui Kai Partnership as lessor and Brooms-Lonie, Inc. (now BHB Condominiums, Ltd.) as general partner of the Honokowai Maui Limited Partnership (registered in the State of Hawaii, Department of Regulatory Agencies as Honokowai Maui Partnership), as lessee, which lease is recorded in the Bureau of Conveyances in Book 9199, Page 402, and was subsequently amended by instrument dated March 4, 1977, recorded in Book 12266, Page 62, instrument dated July 1, 1977, recorded in Book 12310, Page 358, and instrument dated December 13, 1977, recorded in Book 12696, Page 226, (the lease, as amended, hereafter referred to as the "Master Lease").

3. The reservation in favor of the State of Hawaii of all mineral and metallic mines.
4. As to portions of the land bordering on the ocean:
 - (a) The effect of the decision by the Hawaii Supreme Court in the case of Application of Ashford, 50 H. 314, 440 P.2d 76 (1968) and other decisions of said Court with respect to the location of the high water mark (seaward boundary);
 - (b) The effect of Sections 205-31 to 205-37, Hawaii Revised Statutes, as amended.
5. Grant dated October 15, 1974, in favor of Maui Electric Company, Limited, recorded in the Bureau of Conveyances in Book 10356, Page 539, granting an easement for utility purposes over, under, upon, across and through the land.
6. Grant dated August 18, 1975, in favor of Aaron M. Chaney, Inc., recorded in the Bureau of Conveyances in Book 10968, Page 465, granting a nonexclusive easement for access and utility purposes across a portion of the land containing an area of 6,753 square feet.
7. Declaration as to Merger of Increments in a Condominium Project dated November 7, 1974, recorded in the Bureau of Conveyances in Book 10253, Page 59.
8. Mortgage on the Master Lease described in Item 2 above dated July 15, 1977, made by Honokowai Maui Partnership in favor of United States National Bank of Oregon, recorded in Book 12421, Page 586, which mortgage was amended by instrument dated December 13, 1977, recorded in Book 12736, Page 17.
9. The aforementioned Declaration of Horizontal Property Regime, Bylaws and Condominium Map.

Note:

(1) The Master Lease described in Item 2 will be partially surrendered as to each apartment and its appurtenant undivided interest in the common elements contemporaneously with the issuance of each apartment lease to a purchaser. The apartment leases issued upon completion of the

Project shall have three consecutive ten-year fixed rental periods, after which the lease rent shall be negotiated periodically. All apartment leases issued subsequent to the completion of construction of the Project shall have three fixed rental periods which expire on the same date as the three fixed rental periods contained in the first group of apartment leases which are issued so that the first fixed rental period in all subsequently issued leases shall have a period of less than ten years commencing as of the date they are issued. All apartment leases shall have a term which shall continue until June 30, 2030.

(2) The mortgage described in Item 8 will be released as to each apartment sold prior to the issuance of an apartment lease to a purchaser.

(3) By the terms of the Declaration as to Merger described in Item 7, the merger of the Paki Maui III and Paki Maui condominium projects will terminate on June 30, 2030. However, the merger may be continued by a vote of seventy-five percent (75%) of the owners of each project with the consent of the then fee owners of each project.

PURCHASE MONEY HANDLING: The Developer has asked that the following information be supplied in addition to or in modification of that in the Preliminary Public Report:

1. The specimen Sales Contract provides, among other provisions, that the 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 their lien under the Sales Contract in favor of the mortgage loan. By executing the receipt for this Final Horizontal Property Regimes (Condominium) Public Report, the purchaser expressly waives and subordinates the priority of the purchaser's lien under the Sales Contract to the mortgage securing the construction loan made by United States National Bank of Oregon to the Developer in the amount of \$2,250,000.00, with interest at the rate of ten percent (10%) per annum (12 percent upon default) for a term ending December 31, 1978.

2. The Developer is waiving the provision in Paragraph 9(b) of the Sales Contract which eliminates the Buyer's right to demand specific performance in the event the Seller shall default in the performance of its obligations under the Sales Contract. All other provisions of Paragraph 9(b) relating to the purchaser's right to cancel the sales contract and receive liquidated damages shall remain in full force and effect. The Developer is also waiving the provisions of Paragraph 18 of the Sales Contract relating to the Seller's right to cancel the Sales Contract if the Seller is unable to sell twenty-five (25) apartments or is unable to obtain a building permit from appropriate county authorities by April 15, 1978.
3. If the purchasers who have agreed to obtain mortgage loans have not secured commitments therefor satisfactory to the Developer, the Developer may cancel the Sales Contracts and refund all moneys paid by the purchasers without interest.

MANAGEMENT AND OPERATION: Aaron M. Chaney, Inc. has been selected to serve as managing agent upon the completion of Paki Maui III and the merger of the Paki Maui III and Paki Maui condominium projects, under the terms of an Agreement dated December 2, 1977, executed by the Honokowai Maui Partnership, the Board of Directors of the Association of Apartment Owners of the Paki Maui condominium project, and Aaron M. Chaney, Inc., a copy of which Agreement has been filed with the Commission. By the terms of the Declaration as to Merger (See Item 7 in the Encumbrances section), the merger will take effect upon the completion of construction of Paki Maui III and the recording of a Certificate of Compliance by the fee owners of the projects in the Bureau of Conveyances of the State of Hawaii. After the merger, the Paki Maui III and Paki Maui condominium projects will be operated as a single condominium project containing 108 apartment units. There will be a total of 124 parking stalls (which are all common elements) in the merged projects.

STATUS OF PROJECT: The Developer advises that construction of the project will commence in March 1978, and will be completed about January, 1979. A building contract was executed on October 12, 1977 between the Developer and Associated Masons, Ltd. as contractor.

The purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information

disclosed by the Developer in the required Notice of Intention submitted July 7, 1977, and information subsequently filed as of March 16, 1978.

THIS FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 926 filed with the Commission on July 7, 1977.

The report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.

(for) *Mary V. Sawio*
AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

DISTRIBUTION:

DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT
COUNTY OF MAUI
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

Registration No. 926
March 23, 1978