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

KAMAAINA BEACH (Condominium Project)
Kalaheo Avenue
Kailua, Oahu, Hawaii

Registration No. 935

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: November 8, 1977
Expires: December 8, 1978

SPECIAL ATTENTION

A comprehensive reading of this report 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 SEPTEMBER 30, 1977 AND INFORMATION SUBMITTED AS OF NOVEMBER 7, 1977. THE DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. Kaamaina Beach is a fee simple condominium project consisting of a five (5) 1 story single-family apartments. Each apartment may include a carport which is detached or attached.

2. The Developer of the project has filed all documents and materials deemed necessary by the Commission for the registration of this condominium project and the issuance of this Final Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of Approved Floor Plans) have been filed in the Office of the Recording Officer. The Declaration of Horizontal Property Regime, with By-Laws attached, have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 844822. The Approved Floor Plans showing the layout, location, dwelling numbers, etc., have been designated on Condominium File Plan No. 318.

4. The Developer has submitted its program of financing the building of the project and a statement of the estimated costs involved in completing the project. Each purchaser shall secure conventional mortgage financing.

5. No advertising or promotional material 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 514, Hawaii Revised Statutes, and the Rules and Regulations promulgated thereunder which relate to Horizontal Property Regimes.

7. This Final Public Report is made a part of the registration of the KAMAAINA BEACH condominium project. The Developer has the responsibility of placing a true copy of the Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers and obtaining a signed receipt therefor from such party.

8. This Final Public Report automatically expires thirteen (13) months after date of issuance, November 8, 1977, unless a Supplementary Report issues or the Commission upon review of registration issues an order extending the effective period of this report.

NAME OF PROJECT: KAMAAINA BEACH (Condominium Project)

LOCATION: The site, consisting of approximately 1.460 acres, is located on Kalaheo Avenue, in Kailua, Oahu, Hawaii.

TAX MAP KEY: First Division 4-3-15-10

ZONING: R-3

DEVELOPER: Kent-Despain Kalaheo Venture, a Hawaii Joint Venture, composed of Eugene K. Despain and Peter Kent, 745 Fort Street, Suite 412, Honolulu, Hawaii, 96813, Telephone: 536-5303.

ATTORNEYS REPRESENTING DEVELOPER: Eugene K. Despain and Peter Kent, 735 Bishop Street, Suite 433, Honolulu, Hawaii 96813, Telephone: 521-7474.

DESCRIPTION: The Declaration of Horizontal Property Regime and plans submitted by Developer indicate a fee simple project consisting of five (5) single-family residential buildings, each of which may have appurtenant thereto a detached or undetached carport. Each building shall contain one (1) single-family residential apartment (hereinafter called apartment building) consisting of one story or level and no basement, and shall be constructed principally of wooden walls, roofs, wood or concrete slabs on ground floor, wooden balconies (if any), stairs and decking, gypsum board and allied building materials.

Five (5) freehold estates (apartments) are hereby designated in and shall be deemed to include the spaces enclosed by and within the outside surfaces of the exterior walls, roofs, floors, footings and foundations of each of the five (5) apartments of the Project. These apartments (estates) shall also include all interior walls, partitions and ceilings and the finished surfaces thereof, and all fixtures installed therein and to any lanais, terraces, entries, decks, balconies, and carports or garages thereon. These apartments are designated, numbered and located on the property according to the file plan which is as follows:

(a) Apartment No. 1 is located on Lot No. 1.

(b) Apartment No. 2 is located on Lot No. 2.

(c) Apartment No. 3 is located on Lot No. 3.

(d) Apartment No. 4 is located on Lot No. 4.

(e) Apartment No. 5 is located on Lot No. 5.

(f) The apartment buildings are constructed according to five (5) different floor plans. A description of each of the floor plans, designating the number of rooms and approximate area thereof is set forth as follows:

Residential Building No. 1 consists of 10 rooms, including 5 bedrooms, a kitchen, a living room and 3 bathrooms. This building contains a covered floor area of approximately 1600 square feet.

Residential Building No. 2 consists of 7 rooms, including 3 bedrooms, a kitchen, a living room and 2 bathrooms. This building contains a covered floor area of approximately 1438 square feet.

Residential Building No. 3 consists of 7 rooms, including 3 bedrooms, a kitchen, a living room and 2 bathrooms. This building contains a covered floor area of approximately 1128 square feet.

Residential Building No. 4 consists of 9 rooms, including 3 bedrooms, a kitchen, a living room, a dining room (area) and 2 bathrooms. This building contains a covered floor area of approximately 1602 square feet including garage.

Residential Building No. 5 consists of 8 rooms, including 4 bedrooms, a kitchen, a living room, a lanai and 1 bathroom. This building contains a covered floor area of approximately 1646 square feet including carport.

(g) Each apartment has immediate access to the grounds of the project.

(h) The respective apartments shall not be deemed to include any pipes, wires, conduits, or other utility or service lines running through such apartment (if any) which are utilized for or serve more than one (1) apartment, the same being deemed common elements.

NOTE: The Declaration provides that the owner of any apartment shall have the right to alter the exterior and/or interior of his apartment, at any time, and from time to time solely by an amendment to the Declaration as therein provided.

COMMON ELEMENTS: The common elements will include all portions of the land and improvements other than the apartments, including specifically, but not limited to: said land in fee simple; all yards, grounds, landscaped areas and uncovered walkways around and between said buildings not designated as part of the respective apartments; all roadways, stairways, sidewalks, driveways and retaining walls not designated as part of the respective apartments; all central and appurtenant installations for common services, including power, light, water, telephone, television, sewer and trash disposal; and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the Project.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called the "limited common elements", are hereby designated and set aside for the exclusive use of certain apartments, and such apartment 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: Each Lot upon which the respective apartments are built shall be appurtenant to and for the exclusive use of such apartment, being designated on said condominium file plan as follows:

Apartment No. 1 -- Lot No. 1,

Apartment No. 2 -- Lot No. 2,

Apartment No. 3 -- Lot No. 3,

Apartment No. 4 -- Lot No. 4,

Apartment No. 5 -- Lot No. 5;

the driveway connecting the carport of each apartment to the roadway of the project shall be deemed a limited common element appurtenant to and for the exclusive use of the apartment or apartments which are served thereby; and the stairways and walkways connecting the apartment to the roadway of the Project and/or to the carports of such apartments shall be deemed a limited common element appurtenant to and for the exclusive use of the apartment or apartments served thereby.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided 1/5 fractional interest in all common elements of the project and the same proportionate share in all common profits and expenses of the project and for all other purposes, including voting.

USE: The Declaration provides that the apartments shall be occupied and use only for living accomodations by the respective owners thereof, their servants and guests, and for no other purpose. The apartment owners shall have the absolute right to lease or rent their apartments subject to the limitations, restrictions, covenants and conditions of the Declaration and By-Laws.

OWNERSHIP OF TITLE: The title report dated September 23, 1977, by Title Guaranty of Hawaii, Inc., indicates that title to the land is vested in Kent-Despain Kalaheo Venture, a Hawaii Joint Venture.

ENCUMBRANCES AGAINST TITLE: The said September 23, 1977, title report indicates that there are the following encumbrances:

(1.) For any taxes that may be due and owing, reference is made to the office of the Tax Assessor, first division.

(2.) The location of the seaward boundary in accordance with the laws of the State of Hawaii.

(3.) Covenant as set forth in Deed by B. R. Banning to John Henry Magoon, dated April 18, 1923 and filed as Land Court Document No. 4104.

(4.) Easement for sanitary sewer over the Northwesterly side Boundary of Lot 5 on Map 148 as set forth by Land Court Order No. 24076, filed on April 6, 1965.

(5.) Grant in favor of the City and County of Honolulu, granting easement for sewer purposes, dated March 10, 1965 and filed as Land Court Document No. 357795.

(6.) Mortgage in favor of American Security Bank dated September 22, 1977 and filed as Land Court Document No. 836602. NOTE: The Developer has advised the Commission that there will be partial releases from this mortgage as the apartment units are sold.

PURCHASE MONEY HANDLING: A copy of the five (5) executed Escrow Agreements covering each of the apartments in the project, dated September 30, 1977, between Developer and Title Guaranty Escrow Services, Inc., as Escrow, 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, H.R.S. 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 $25.00 cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

1. Escrow receives a written request from Developer to return to Purchaser the funds of such Purchaser then held under the Escrow Agreement by Escrow; or

2. If a 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 sales contract, requiring approval of a county officer having jurisdiction over the issuance of permits for construction, unless the purchaser has given written approval or acceptance of the specific change; or

3. If a 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

4. If the Final Public Report is not issued within one (1) year from the date of issuance of the Preliminary Public Report; or

5. If a Buyer'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.

It is incumbent of the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the sales contract since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's funds. The specimen sales contract specifically provides that the purchaser approve said Escrow Agreement and assume the benefits and obligations therein provided. Purchaser and prospective purchasers are advised to read with care the provisions of the sales contract.

NOTE: The specimen sales contract includes the following provisions:

1. The purchaser agreed that until the sale of all of the apartments in the Project, or until September 15, 1979, whichever shall first occur, the purchaser shall not enter into an agreement with any owner, purchaser, or lessee of another apartment in the Project and/or any third party under which purchaser agrees to share expenses and/or rentals of apartments in the project, and that this agreement of the purchaser shall survive the issuance to the purchaser of the apartment deed conveying the premises and shall bind the purchaser's heirs, executors, administrators, successors and assigns during the term thereof.

MANAGEMENT OF THE PROJECT: The By-Laws which are incorporated in the proposed Declaration provide that the operation of the project shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible managing agent. The Developer has selected as initial managing agent: Eugene K. Despain, 745 Fort Street, Suite 412, Honolulu, Hawaii 96813.

NOTE: Developer advises that no representations or references will be made to either purchasers or prospective purchaser 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 of an apartment, or as to possible advantages from the rental of an apartment under federal or state tax laws. Rental of the apartments and the provisions of management services in connection therewith is and shall be the sole responsibility of the purchaser.

STATUS OF PROJECT: The Developer advises that the apartments are all at least twenty (20) years old and has been used as rental units.

NOTE: As the buildings of the project were completed a number of years prior to the enactment of the existing Comprehensive Zoning Code (CZC), the buildings are probably nonconforming structures under the CZC. Section 21-107 (d) of the CZC provides in part:

> "Nonconforming structure. A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
>
> (1) Enlargement or alteration. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity.
>
> (2) Damage or destruction. If a nonconforming structure is destroyed by any means to an extent of more that 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter."

Also, the buildings of the project may be built upon a lot that may be now nonconforming under the CZC. Section 21-107(e) of CZC provides in part:

> "Nonconforming lots.
>
> (1) A nonconforming lot shall not be reduced in area or width.
>
> (2) Any conforming use or conforming structure on a nonconforming lot may be enlarged, extended, constructed, or moved so long as other requirements of this Chapter are met.
>
> . . .
>
> (4) Any provision to the contrary notwithstanding, a single-family dwelling and customary accessory buildings may be erected on any nonconforming lot located in any district in which single-family dwellings are permitted."

Also, in the future if an approval for a subdivision, or a building permit, for all or any part of the project is sought, compliance with City and County of Honolulu Ordinance 4621 (being the "Park Lands Dedication Ordinance") may be required.

NOTE: The five (5) foot wide walkway to the beach, along the Northwest side of the project as shown on the said Condominium Map, is partially blocked by existing ironwood trees. Purchasers and prospective purchasers are thus advised to personally inspect the walkway.

The purchaser or prospective purchaser should be congizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention

submitted September 30, 1977 and information submitted as of November 7, 1977.

This is a FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made part of REGISTRATION NO. 935 filed with the Commission September 30, 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 white.

Ah Kau Young

AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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ESCROW AGENT

REGISTRATION NO. 935

NOVEMBER 8, 1977