

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

## PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on  
THE IRONWOODS  
Kapalua, Maui, Hawaii

REGISTRATION NO. 991

### 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 but may only take reservations therefore after

- (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: May 5, 1978

Expires: June 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 April 11, 1978, AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 1, 1978. DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514A, HAWAII REVISED STATUTES.

1. THE IRONWOODS is a proposed leasehold condominium project consisting of ten (10) separate residential buildings (not including the recreation building containing a total of forty (40) apartments, all to be built in accordance with floor plans filed with the

Real Estate Commission. The project will contain not less than eighty-one (81) parking spaces.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the issuance of this Preliminary Public Report. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for this Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.
3. Advertising or promotional matter have been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The basic documents (Master Lease, Declaration of Horizontal Property Regime, Bylaws of Association of Apartment Owners, a copy of the approved floor plans and Supplemental Declaration of Covenants and Restrictions) have not been recorded in the office of the recording officer.
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 Preliminary Public Report automatically expires thirteen (13) months after date of issuance, May 5, 1978, unless a Supplementary or Final Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE IRONWOODS.

LOCATION: The land submitted to the Regime, approximately 9.193 acres, is located in Kapalua, Lahaina, Maui.

TAX MAP KEY: Portion of TMK 4-2-1-25.

ZONING: A-2 (Apartment District), Open, BR (Resort Commercial District), and Conservation District.

DEVELOPER: Kapalua Land Company, Ltd., a Hawaii corporation, whose post office address is P. O. Box 188, Kahului,

Maui, Hawaii 96732, telephone number 877-5393. The officers of the corporation are:

Colin C. Cameron	Chairman of the Board
Thos Rohr	President
Benjamin W. Baker	Vice President/Finance
Morris J. Womack	Vice President/Construction
Michael J. Gallagher	Vice President/Management
Alan P. Simpson	Vice President/Controller
Charles F. DuBois	Secretary and Treasurer
William M. Slater	Assistant Secretary

ATTORNEY REPRESENTING DEVELOPER: CARLSMITH, CARLSMITH, WICHMAN AND CASE, Pacific Trade Center, 22nd Floor, Honolulu, Hawaii 96813 (Attention: James W. Boyle and Ronald Y. Shigetani), telephone number 523-2500.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime submitted to the Commission (hereinafter referred to as the "Declaration") provides that the land will be improved according to the Developer's plans and intention to sell, by constructing thereon ten (10) separate residential buildings, which contain four (4) apartments each. The project will contain one (1) swimming pool, two (2) tennis courts, a recreation building with a manager's unit, walkways, driveways and outdoor parking areas. Each unit will include standard appliances. The respective apartments shall not be deemed to include (a) the undecorated or unfinished surfaces of the perimeter walls, the interior load-bearing walls or interior party walls, (b) the floors and ceiling surrounding each apartment, or (c) any pipes, shafts, wires, conduits or other utility or service 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 be deemed to include (i) all the walls and partitions which are not load-bearing within its perimeter walls, (ii) the inner decorated or finished surfaces of all walls, floors and ceilings, (iii) any doors, windows or panels along the perimeters, (iv) any adjacent lanai to which each apartment has direct exclusive access, and (v) all fixtures originally installed therein. Each apartment has immediate access to the common land area with walkways to the parking areas and public highway.

1. Building Descriptions. The four (4) Type A buildings containing four (4) apartments each are designated as buildings 3, 6, 7 and 9. The six (6) Type B buildings containing four (4) apartments each are designated as buildings 1, 2, 4, 5, 8 and 10. Buildings number 4 and 10 are

Type B buildings reversed. Type A buildings have three (3) stories, including a ground floor, but no basement. Type B buildings have two (2) stories, including a ground floor, but no basement.

NOTE: Building 6 is adjacent to an area presently zoned BR (resort commercial) and which may be developed into a commercial use at a later date.

The Developer shall construct a recreation building which will include a manager's unit as a separate building and which will be a common element of the project. The size, location, dimensions and furnishings (if any) of the recreation building shall be at the sole discretion of the Developer.

2. Materials. Each building will be constructed principally of wood frame with exterior plaster finish, wood framed windows, concrete or clay roof tiles and a concrete floor slab.

3. Description, Area and Numbering of Apartments. There will be seven (7) apartment unit types ("Units") designated as Units 2-B, 2-Bx, 2-S, 2-Sx, 2-T, 3-S and 3-T, which are described below. Type A buildings contain Units 2-B, 2-Bx, 2-T and 3-T. Type B buildings contain Units 2-S, 2-Sx and 3-S.

The first number of the unit type indicates the number of bedrooms. The letter "B" indicates a basic two bedroom unit and the "Bx" indicates a two bedroom unit with a larger lanai area; the letter "S" indicates study and the "Sx" indicates a larger interior area. The letter "T" indicates townhouse. Type 2-B, 2-Bx, 2-S, 2-Sx and 2-T have three (3) bathrooms and Type 3-S and 3-T have four (4) bathrooms.

Each apartment is designated by the number of the building followed by the number of the apartment. The numbering is from left to right and from bottom to top as one looks at the front of the building from the street, and from one (1) through four (4). For example, Apartment 104 is in Building 10, top right (above Apartment 102, which is bottom right of Building 10).

Unit 2-B is a single story apartment containing eight (8) rooms consisting of a living room, dining room, master suite, gentleman bath, lady's salle de bain, bedroom, bath, kitchen, and a screened lanai, an ocean lanai, and two (2) other lanais. The apartment floor area excluding lanais is approximately 1,750 square feet. The area, including lanais, is approximately 2,265 square feet. There are four (4) Unit 2-B apartments in the project, numbered 32, 62, 72 and 92.

Unit 2-Bx is a single story apartment containing eight (8) rooms consisting of a living room, dining room, master suite, gentleman bath, lady's salle de bain, bedroom, bath, kitchen, and a screened lanai, an ocean lanai, and two (2) other lanais. The apartment floor area excluding lanais is approximately 1,750 square feet. The area, including lanais, is approximately 2,308 square feet. There are four (4) Unit 2-Bx apartments in the project, numbered 31, 61, 71 and 91.

Unit 2-S is a single story apartment containing nine (9) rooms consisting of a living room, dining room, study, master suite, gentleman bath, lady's salle de bain, bedroom, bath, kitchen, and a screened lanai, an ocean lanai, and two (2) other lanais. The apartment floor area excluding lanais is approximately 1,935 square feet. The area, including lanais, is approximately 2,443 square feet. There are twelve (12) Unit 2-S apartments in the project, numbered 12, 14, 22, 24, 41, 43, 52, 54, 82, 84, 101 and 103.

Unit 2-Sx is a single story apartment containing nine (9) rooms consisting of a living room, dining room, study, master suite, gentleman bath, lady's salle de bain, bedroom, bath, kitchen, and a screened lanai, an ocean lanai, and another lanai. The apartment floor area excluding lanais is approximately 1,998 square feet. The area, including lanais, is approximately 2,482 square feet. There are six (6) Unit 2-Sx apartments in the project, numbered 13, 23, 44, 53, 83 and 104.

Unit 2-T is a two-story apartment containing nine (9) rooms consisting of a living room, dining room, master suite, gentleman bath, lady's salle de bain, kitchen, loft suite, study, bathroom, and a screened lanai, an ocean lanai, and another lanai. The apartment floor area excluding lanais is approximately 2,012 square feet. The area, including lanais is approximately 2,498 square feet. There are four (4) Unit 2-T apartments in the project, numbered 33, 63, 73 and 93.

Unit 3-S is a single story apartment containing twelve (12) rooms consisting of a living room, sitting room, dining room, kitchen, study, gentleman bath, master suite, lady's salle de bain, two (2) bedrooms, two (2) bathrooms, an ocean lanai, and two (2) other lanais. The apartment floor area excluding lanais is approximately 2,400 square feet. The area, including lanais, is approximately 2,738 square feet. There are six (6) Unit 3-S apartments in the project, numbered 11, 21, 42, 51, 81 and 102.

Unit 3-T is a two-story apartment containing twelve (12) rooms consisting of a kitchen, dining room,

sitting room, living room, gentleman bath, master suite, lady's salle de bain, bedroom, bathroom, loft suit, study, bathroom, an ocean lanai, and two (2) other lanais. The apartment floor area excluding lanais is approximately 2,699 square feet. The area, including lanais, is approximately 3,031 square feet. There are four (4) Unit 3-T apartments in the project, numbered 34, 64, 74 and 94.

The floor areas were arrived at by taking the measurements from the center line of common walls to the exterior surface of exterior walls and to the exterior surface of the lanai railings, without exclusions for ducts, columns, stairs, elevators, walls, or other interior construction or equipment within such areas.

COMMON ELEMENTS: The common elements will include the limited common elements described in the next topical heading, LIMITED COMMON ELEMENTS, and all other portions of the project other than the apartments, and all elements mentioned in the Horizontal Property Act which are actually included in the project including specifically but not limited to:

- (a) The land in fee simple as described in Exhibit A attached to the proposed Declaration;
- (b) All foundations, floor slabs, beams, columns, supports, girders, unfinished perimeter and load-bearing walls, walkways, ramps, fences, railings and roofs;
- (c) All driveways, roadways, pavements, and walkways and all planted areas, grounds, landscaping, and other recreational areas, including swimming pool, the recreation building with manager's unit, refuse facilities and mail boxes;
- (d) All parking areas, ramps (if any) and unassigned parking stalls;
- (e) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment for services such as power, air conditioning systems, light, water, sewer, telephones and radio and television signal distribution;
- (f) Any and all other apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, maintenance, and safety, or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called "Limited Common Elements", are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

(a) The parking stall bearing the same number as the apartment as shown on the proposed Condominium Map; and

(b) The air conditioning system (including the compressor, ducts, wiring, control panel(s), etc.) serving the apartment.

INTEREST TO BE CONVEYED TO PURCHASER: 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 and for all other purposes including voting as set forth below.

<u>Apartment Unit Type</u>	<u>Undivided Percentage Interest</u>	<u>Number of Apartments</u>	<u>Total Undivided Percentage Interest</u>
2-B	2.2596	4	9.0384
2-Bx	2.2596	4	9.0384
2-S	2.4401	12	29.2812
2-Sx	2.4401	6	14.6406
2-T	2.4401	4	9.7604
3-S	2.8241	6	16.9446
3-T	2.8241	4	11.2964
		40	100.0000

All limited common elements costs and expenses including, but not limited to, maintenance, repair, replacement, additions and improvements shall be charged to the owner of the apartment to which the limited common elements are appurtenant.

PURPOSE AS TO USE: The proposed Declaration provides that the apartments shall be occupied and used only as permanent or temporary residences, lodgings or rental and for no other purpose.

OWNERSHIP OF TITLE: The Notice of Intention reflects that title to the land is vested in Maui Land & Pineapple Company, Inc., but the Developer has an agreement to lease it from Maui Land & Pineapple Company, Inc.

NOTE: An Option Agreement to lease said land dated April 27, 1978 provides that the Developer may exercise the option any time after final subdivision approval is obtained from the County of Maui. The term of the option shall be for a period of five years from date of Agreement and in the event Option is not exercised within the prescribed time, the Option Agreement shall become null and void.

ENCUMBRANCES AGAINST TITLE: A Preliminary Title Report prepared by Long & Melone Escrow, Ltd., dated March 20, 1978, reflects the following encumbrances:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Location of the seaward boundary in accordance with the laws of the State of Hawaii.
3. The terms, covenants and restrictions of the Declaration of Covenants and Restrictions dated December 29, 1976, made by Maui Land & Pineapple Company, Inc. and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11922, at Page 26 ("Kapalua Protective Provisions"), as amended from time to time.
4. Grant of easement in favor of Maui Electric Ltd. and Hawaiian Telephone Co. dated May 7, 1976, and recorded in the Bureau in Liber 11443 at Page 479.
5. That certain Mortgage and Security Agreement dated April 24, 1975, made by Kapalua Land Company, Ltd., as Mortgagor, and Bank of Hawaii, as Mortgagee, recorded in the Bureau in Liber 10667, at Page 1 (affects the land described above besides other land).
6. That certain Financing Statement recorded May 28, 1975, made by Kapalua Land Company, Ltd., as Debtor, and Bank of Hawaii, as Secured Party, recorded in the Bureau in Liber 10667 at Page 44 (covers fixtures, etc. used in construction or operation of improvements on the land described above besides other land).
7. By instrument dated May 23, 1975, and recorded in the Bureau in Liber 10667, at Page 62, Kapalua Land Company, Ltd. and Maui Land & Pineapple Company, Inc., assign to Bank of Hawaii, all right, title and interest in and to the land described above, besides other land, as additional security to the Mortgage described above.

8. That certain Financing Statement recorded May 28, 1975, made by Kapalua Land Company, Ltd., as Debtor, and Bank of Hawaii, as Secured Party, recorded in the Bureau in Liber 10667 at Page 74 (covers all fixtures, etc., located within or used or to be used in connection with the operation or occupancy of, and any improvements now or hereafter located on the land described above besides the other land).

9. That certain Financing Statement recorded May 28, 1975, made by Maui Land & Pineapple Company, Inc., as Debtor, and Bank of Hawaii, as Secured Party, recorded in the Bureau in Liber 10667 at Page 76 (covers all fixtures, etc., located within or used or to be used in connection with the operation or occupancy of, and any improvements now or hereafter located on the land described above besides other land).

10. By Additional Security Mortgage and Security Agreement dated June 30, 1976, and recorded in the Bureau in Liber 11515, at Page 358, Maui Land & Pineapple Company, Inc. assigns to Bank of Hawaii all of its right, title and interest in and to the land described above, besides other land, as additional security to the Mortgage and Security Agreement described above.

11. Additional Charge Mortgage, Security Agreement and Financing Statement and Amendment of Original Mortgages dated January 4, 1978, and recorded in the Bureau in Liber 12654, at Page 550, made by Maui Land & Pineapple Company, Inc., as Mortgagor, and Bank of Hawaii, as Mortgagee.

12. Additional Charge Mortgage, Security Agreement and Financing Statement and Amendment of Original Mortgages dated January 4, 1978, and recorded in the Bureau in Liber 12654, at Page 584, made by Kapalua Land Company, Ltd., as Mortgagee, and Bank of Hawaii, as Mortgagee.

13. Final subdivision approval of the County of Maui.

14. For any taxes that are due and owing and a lien on the land, reference is made to the Office of the Tax Assessor, Second Division.

The Developer has notified the Commission that it anticipates the following encumbrances will be reflected on an updated title research at the time the Final Public Report is issued.

1. Reservation in favor of Maui Land & Pineapple Company, Inc. of the right, at its expense and for the benefit of the land described above or adjacent property or other Kapalua Resort property (i) to grant over, across and under the common elements easements for utilities, sanitary and storm sewers, cable television, walkways, and rights of way, and (ii) to relocate or realign any existing easements and rights of way over, across, and under the land described above, including without limitation, any existing utilities, sanitary and sewer lines and cable television and connect same, over, across and under the land described above, provided that such easements and such relocations and connections of lines shall not materially impair or interfere with the use of the land described above.

2. Reserving and excepting to MAUI LAND & PINEAPPLE COMPANY, INC., its successors and assigns (collectively the "Reservant"), forever, as appurtenant to lands of Reservant, located in the District of Lahaina, Island and County of Maui, State of Hawaii, now owned and used or hereinafter acquired and used by Reservant (whether in fee, lease, or otherwise), in its pineapple plantation and other agricultural operations, the perpetual right and easement over and upon the lands described above and/or submitted to the Kapalua Protective Provisions, to discharge and emit, diffuse and inflict, noise, smoke, soot, dust, lights, noxious vapors, odors, and other minor nuisances of every description created by and resulting from the operations of Reservant in burning, harvesting, fertilizing, watering, growing, planting, generating power, trucking, hauling, milling, and all other activities incidental to the operation of a pineapple plantation and all other agricultural activities of Reservant.

3. The terms and conditions contained in a Lease to be entered into by and between Maui Land & Pineapple Company, Inc., as Lessor, and Kapalua Land Company, Ltd., as Lessee.

PURCHASE MONEY HANDLING: A copy of the Escrow Agreement, dated April 11, 1978, between Long & Melone Escrow, Ltd., a Hawaii corporation, as "Escrow", and the Developer, as "Seller" (and Lawyers Title Insurance Corporation as to paragraph 16 only), has been submitted to the Commission as part of the registration. On examination, the Sales Contract, in specimen form, and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly Section 514A-39, Section 514A-40, and Sections 514A-63 through 514A-66.

The provisions of the Escrow Agreement are to be carefully read and understood. It provides:

If at the time of the execution of the Sales Contract a Final Report has not been issued by the Commission with respect to the project, then the following limitations shall apply:

(a) Purchaser's funds obtained prior to the issuance of a Final Report shall be refunded if there is any change in the condominium building plans subsequent to the execution of a county officer having jurisdiction over the issuance of permits for construction of buildings, unless purchaser's written approval or acceptance of the specific change is obtained or ninety (90) days have elapsed since purchaser has accepted the apartment in writing or since purchaser has first occupied the apartment.

(b) All rights under the Sales Contract shall not become enforceable against the purchaser until the purchaser has had a full opportunity to read the Real Estate Commission's Final Public Report on the project, and to obtain a refund of any moneys paid by the purchaser as well as release from all obligations under the Sales Contract if the Final Report differs in any material respect from the Preliminary Report.

(c) If the Final Report is not issued within one year from the date of the issuance of said Preliminary Report and any extensions of the Preliminary Report, the purchaser shall be entitled to a refund of all moneys paid by him under the Sales Contract without further obligation.

(d) All moneys paid by the purchaser prior to the issuance of said Final Report shall be deposited in trust with the Escrow and the Escrow is hereby instructed that no disbursements shall be made from such trust fund on behalf of the Seller until:

(i) The Sales Contract has become effective, and the requirements of Sections 514A-39, 514A-63, 514A-64 and 514A-66, Hawaii Revised Statutes, have been met;

(ii) A Final Public Report for the project has been issued by the Real Estate Commission, Escrow has received a copy of purchaser's receipt for such Final Public Report and forty-eight (48) hours have elapsed since purchaser receipted for such Final Public Report;

(iii) Seller has notified Escrow in writing that all requirements of Sections 514A-39, 514A-63, 514A-64 and 514A-66, Hawaii Revised Statutes, have been met.

After issuance of the Final Public Report, the Developer may use the trust fund to finance construction of the project in accordance with the Escrow Agreement and Section 514A-67, Hawaii Revised Statutes.

The Developer has agreed to pay interest on Payments A, B and C of the Sales Contract at the rate of 5-1/4% simple interest per annum from the date Escrow receives Payment B (as to Payments A and B), and from the date Escrow receives Payment C to the date of final closing. The Developer shall be responsible for the payment of such interest regardless of any interest actually earned on such funds. Escrow will calculate the amount of interest due the purchaser and shall pay such interest to the purchaser within ten (10) days after final closing. In the event of a default by the purchaser or if purchaser fails to qualify for a loan or fails to give reasonable proof of financial ability to pay cash for the apartment, no interest will be paid.

The provisions of the specimen Sales Contract are to be carefully read and understood. It provides:

1. Sales Conditional on Final Subdivision Approval. If at the Seller's Acceptance Date (as defined in Sales Contract) Developer has not received final subdivision approval for the land, then purchaser's performance under the Sales Contract shall be subject to the condition precedent of the issuance to Developer of such final approval by December 31, 1979 (the "Approval Deadline"), and the following provisions shall apply:

(a) Developer will proceed with all due diligence to obtain such final approval and shall comply with all of the county requirements of the preliminary and final subdivision approvals (including any construction requirements);

(b) Purchaser's funds deposited with Escrow prior to the Approval Deadline shall be refunded to purchaser without deductions, together with any interest earned, within ten (10) days after the Approval Deadline if the final subdivision approval has not been issued by that date;

(c) Pending such final approval, purchaser shall continue to perform under the provisions of the Sales Contract (including making Payments B and C and proceeding

under either paragraph 4(a) or (b) (relating to financing));  
and

(d) If final subdivision approval has not been obtained by the Approval Deadline, then upon the return by Escrow Agent of the payments made by purchaser as provided above, the Sales Contract shall terminate and Developer and purchaser shall have no further rights or obligations with respect thereto.

But upon the issuance of the final subdivision approval by the Approval Deadline, the Sales Contract shall no longer be conditional with respect to subdivision approval and any failure by purchaser to perform fully with respect to the remaining terms and conditions of the Sales Contract shall give Developer the option to terminate it under paragraph 17 thereunder (relating to purchaser's default).

If at the Seller's Acceptance Date final subdivision approval has been issued, this paragraph shall not apply. But if at that date final approval has not been so issued, then a stamp or other notation shall be made on the Sales Contract to that effect.

2. Seller has made no representations with respect to its renting or managing the apartment on Buyer's behalf, and if Buyer wishes to rent the apartment to third persons, Buyer will make his own arrangements to do so; and that Buyer acknowledges that he has been informed that none of Seller's agents are authorized to make any representations concerning the foregoing.

3. Buyer cannot enter into a rental pool or time-sharing program (whether by way of vacation licenses where a licensee or member is allowed to use the apartment for a period of time, specified or unspecified, for a number of years or for the term of the apartment ground lease, or multiple ownership of an apartment where there are more than eight (8) multiple owners, including spouses, who have entered into an agreement on the use of the apartment for a period of time, specified or unspecified, for a number of years or for the term of the apartment ground lease) without Seller's consent after purchasing the apartment.

4. Buyer agrees to subordinate his interest to the lien of the interim mortgage obtained for the construction of the project or to a revolving construction loan facility secured by a mortgage(s) ("interim mortgage") and to any and all advances, whether contractual or voluntary

made pursuant to said mortgage, and to any and all sums which may become a lien pursuant to the terms of said mortgage or the construction loan agreement or any other agreement relating to the interim mortgage. Buyer irrevocably appoints Seller the attorney-in-fact, coupled with an interest, of Buyer to execute and deliver on behalf of Buyer any instrument of subordination which the interim mortgagee or its successors or assigns may require.

5. If more than thirty (30) apartments have not been sold within twelve (12) months of the Seller's Acceptance Date of the Sales Contract, Seller may, at its option, cancel the Contract, in which event, Seller will cause Escrow to refund to Buyer all monies paid, with any interest earned thereon, and Seller and Buyer shall be released from any further liability under such Contract.

6. Seller reserves the right to sell or lease unsold apartments free from any restrictions on such sale or lease which may under the Declaration and Bylaws apply to Buyer.

7. Seller has agreed to pay Buyer interest on the down payment (Payments A, B and C) at the rate of 5-1/4% simple interest per annum from the date Escrow receives Payment B (as to Payments A and B), and from the date Escrow receives Payment C, to the date of final closing. Seller shall be responsible for the payment of such interest regardless of any interest actually earned on such funds deposited by Escrow with the financial institutions as set forth in the Escrow Agreement, which shall be paid to Seller. The interest on the down payment shall be calculated by Escrow and be payable to Buyer within ten (10) days after final closing. No interest will be paid in the event of a default by the purchaser or if the purchaser fails to qualify for a loan or give reasonable proof of financial ability to purchase the apartment.

8. Notwithstanding any item or items that may be contained in any model apartment or apartments located in the project:

(a) Carpeting (except for the kitchen and bathrooms which will have vinyl and tile floors, respectively) is included in the apartment but no ceiling fixtures, no wallpaper and no furniture, furnishings, or appliances (other than the standard appliances) are included in the apartment;

(b) The walls will be painted white; and

(c) Minor finishing details in the apartment may be changed.

It is incumbent upon the purchaser and the prospective purchaser that they read with care the Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of apartments and all sums from any source are placed in trust, as well as the retention, disbursement and refund of said trust funds.

KAPALUA RESORT ASSOCIATION: All purchasers shall automatically become members of the Kapalua Resort Association, a Hawaii nonprofit corporation. The Resort Association's purpose is to provide for the management, maintenance, protection, preservation, and architectural control of land described in the Declaration of Covenants and Restrictions filed by Declarant.

Voting rights are determined as of January 1st of each year as follows:

(a) All Owners, including Declarant, shall receive Voting Rights entitling them to one (1) vote for every ten thousand (10,000) square feet of real property they own in fee simple (whether or not under lease) which is subject to the Kapalua Protective Provisions; and

(b) All other Voting Rights shall be determined in accordance with the following schedule:

one vote for every Condominium Unit owned by the Owner, for every apartment in an apartment house owned by the Owner, and for every single-family residence owned by the Owner on a Single Family Residential Lot (excluding guest houses and servants quarters).

one vote for each hotel guest room owned by the Owner.

one vote for every 1,000 square feet of Floor Area in a building owned by the Owner (other than floor area in a hotel, in a project included under the definition of Condominium Unit, in an apartment house, or in improvements on a Single Family Residential Lot) used for recreational, commercial, restaurant, convention or similar uses.

The Floor Area in buildings devoted to public utility purposes for the furnishing of gas, water, electricity, sewerage, or other utility services shall not be

included in the computation of Voting Rights, nor shall the Owners thereof be entitled to any votes with respect to such Lots.

The Voting Rights of Owners of Condominium Units shall be exercised by the Board of Directors of the Association of Owners or Community Association, as the case may be, of the project in which the Unit is located. If merchants or similar associations are established at Kapalua, the Voting Rights of the Owners of the Floor Area included in such associations shall be exercised through the boards of directors of such associations.

Each Owner of any Lot or Condominium Unit, by acceptance of a purchase and sale agreement, deed, lease or other conveyance document therefor, whether or not it shall be expressed in any such deed, lease or any other conveyance, shall be deemed to covenant and agree to pay his proportionate share of general and special maintenance assessments and assessments for capital contributions, such assessments to be fixed, allocated and collected from time to time.

The assessments levied by the Association shall be used exclusively for the purposes provided for in the Kapalua Protective Provisions.

- NOTE:
1. The Declaration of Covenants and Restrictions shall control in case of any conflict with the Declaration of Horizontal Property Regime.
  2. The purchaser or prospective purchaser should read the Kapalua Resort Association documents carefully, especially the Declaration of Covenants and Restrictions, which will give the Declarant rights to annex additional land.

MANAGEMENT OF THE PROJECT: The proposed Bylaws of the Association of Apartment Owners vest in the Board of Directors the powers and duties necessary for the administration of the overall affairs of the project. The Sales Contract permits the Developer to retain a corporate managing agent, including Kapalua Management Company, a division of Developer, to manage the project. The contract with the managing agent shall not have an initial term exceeding one (1) year from the date of the first Association meeting and shall be terminable by either party on not more than sixty (60) days' notice.

STATEMENT OF FINANCING: The cost of the project is unknown as yet. The Developer has obtained a \$15,000,000 revolving construction loan facility from Bank of Hawaii and intends to utilize this loan facility to construct the Project. The Bank must accept and approve the Project. Each purchaser will be expected to obtain and arrange for his own financing. No take-out financing will be provided by the Developer.

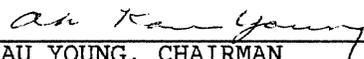
STATUS OF PROJECT: Construction of the project has not yet begun.

DISCLAIMER: Nothing in the proposed Declaration and Sales Contract, nor any advertising or other documentation in connection with the project or the Kapalua Resort, shall be construed as obligating lessor, Developer or any other person to develop any land other than the land described in the Declaration, or to construct any improvements, including any recreational facilities, other than the improvements described in the applicable phase by the Declaration; nor as granting to purchasers any membership or other interest in any entity, club, or facility (recreational or otherwise) other than the project and the Kapalua Resort Association; and any representations to the contrary by Developer's agents are not authorized.

-----  
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 filed on April 11, 1978, and information subsequently filed as of May 1, 1978.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 991 filed with the Commission on April 11, 1978.

This report, when reproduced, shall be a true copy of the Commission's public report. The paper stock used in making facsimiles shall be yellow in color.

  
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

DATE: May 5, 1978

Registration No. 991