

# 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

HOLUALOA BAY VILLAS  
Alii Drive, Holualoa  
North Kona, Hawaii

Registration No. 1077

### 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: February 14, 1979

Expires: March 14, 1980

#### 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 January 16, 1979. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. HOLUALOA BAY VILLAS is a fee simple, residential, condominium project consisting of one rectangular two-story building containing 14 residential apartments plus associated improvements, all in accordance with plans filed with the Real Estate Commission as part of this registration. The Developer intends to sell each of the fourteen (14) apartments together with an undivided interest in the common elements of the project, including the land, to each purchaser.
2. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved plans) have not been recorded in the Bureau of Conveyances of the State of Hawaii, although a copy is on file with the Real Estate Commission as part of this registration.
3. The Developer of the project has submitted to the Real Estate Commission for examination all documents deemed necessary for the issuance of this Preliminary Public Report.
4. This Preliminary Public Report is made a part of the registration of the HOLUALOA BAY VILLAS condominium project. The Developer is responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt for Horizontal Property Regime Preliminary Public Report from each person.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. Advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Real Estate Commission.
7. This Preliminary Public Report automatically expires 13 months after the date of its issuance, February 14, 1979, unless a Supplementary or Final Public Report issues, or the Commission, upon review of registration, issues an order extending the effective period of this report.

NAME OF PROJECT: HOLUALOA BAY VILLAS

LOCATION: On approximately 45,128 square feet of land committed to the Horizontal Property Regime, situated along Alii Drive, Holualoa, District of North Kona, Island, County, and State of Hawaii.

TAX MAP KEY: 7-6-16-31

ZONING: CV-7.5

DEVELOPER: Big Island Properties, a California limited partnership, whose principal place of business and mailing address is 1308 West Robinhood Drive, Suite 16, Stockton, California 95207 (telephone: (209) 477-2608) and whose agent in the Island, County, and State of Hawaii is Clifford M. Poulton, P.O. Box 2808, 29 Hua Place, Kailua-Kona, Hawaii 96740 (telephone: (808) 329-1371). The general partners are:

Ronald Daniel and Michael J. MacFarland, 1308 West Robinhood Drive, Suite 16, Stockton, California 95207.

ATTORNEYS REPRESENTING DEVELOPER: The attorneys representing the Developer are Davis, Playdon & Gerson (Roy L. Anderson), Suite 1333, Pacific Trade Center, 190 South King Street, Honolulu, Hawaii 96813; telephone (808) 524-2466.

DESCRIPTION: The land will be improved according to the Developer's plans, as amended, and the proposed Declaration of Horizontal Property Regime, by constructing thereon one rectangular two-story apartment building consisting of fourteen (14) exclusively residential apartments plus a partial basement area with recreational facilities, a storage room containing 14 separate storage lockers, a covered parking area containing 19 parking stalls, a swimming pool, 2 elevated tennis courts, and various associated improvements. The building will be constructed principally of reinforced concrete, with exterior and party walls between apartments constructed of concrete block. The condominium apartments in the project are described in the proposed Declaration of Horizontal Property Regime as follows:

The two-story building has a total of fourteen (14) residential apartments, each of which contains two bedrooms, two bathrooms, a living-room, dining area and kitchen. In addition to the two stories, there is a basement level below the first floor.

There is one (1) elevator in the center of the mauka side of the building, connecting the basement and parking level with each of the two residential floors of the building above. Two stairways located between the elevator and each end of the building also connect the basement and parking level with each of the two residential floors of the building above, one stairway continuing to the roof.

The basement area, which leads to the parking area contains a recreation room, a manager's office, mens' and womens' restrooms, a sauna, a storage room with fourteen (14) separate lockers, and an electrical equipment and maintenance room.

The first and second floors are identical to each other; each floor has seven (7) apartments of which two (2) are type "A" apartments located at each end of the building, each with a lanai on the makai side extending around the end of the building, and five (5) are type

"B" apartments each with a lanai on the makai side only.

Each apartment has immediate access to the covered walkways which are common areas on the mauka side of the building, which lead to both stairways and the elevator, which lead to the covered parking area, tennis courts, basement level, recreation room, swimming pool area, the grounds around the building, and to the parking lot driveway which leads to Alii Drive.

The fourteen (14) separate apartments in the project are described as follows:

a. Each apartment contains an interior floor area of approximately 1,232 square feet (excluding lanai), and includes two bedrooms, two bathrooms, a living-room, dining area, and kitchen.

b. In addition to the interior square footage designated above, each of the fourteen apartments has a private lanai.

(i) Four of the fourteen apartments are designated type "A" apartments (101, 201, 107, and 207) and include a lanai containing approximately 714 square feet on the makai side of the building and extending around the end of the building.

(ii) Ten of the fourteen apartments are designated type "B" apartments (102, 202, 103, 203, 104, 204, 105, 205, 106, and 206) and include a lanai containing approximately 280 square feet on the makai side of the building.

The Notice of Intention submitted by the Developer describes that each of the apartments includes a double oven, dishwasher, refrigerator, trash compactor, clothes washer and dryer, electric water heater, garbage disposal, carpeting, drapes, and drapery hardware.

The respective apartments will not include the undecorated or unfinished surfaces of the perimeter walls, or the interior load-bearing walls, or the unfinished surfaces of the floors and ceilings which surround the apartments or any pipes, shafts, wires, ducts, conduits, or other utility or service lines, facilities, and appurtenances running through such units which are utilized or which serve more than one condominium apartment. Subject to the foregoing, each apartment shall include the adjacent lanai and each apartment shall include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all the walls, floors, and ceilings, the exterior of the lanai railing and all air space encompassed within the apartment, together with fixtures and other improvements located therein.

COMMON ELEMENTS: An estate has been created consisting of all remaining portions of the project being described and

referred to in the proposed Declaration as "Common Elements", which definition includes, but is not limited to, the following:

(a) The land described in Exhibit "A" to the proposed Declaration of Horizontal Property Regime.

(b) The foundation, floor slabs, columns, girders, beams, supports, bearing walls, roofs, corridors, stairways, fire escapes, entrances and exits of the building.

(c) The roof, the basement area, including, without limitation, the manager's office, the recreation room, the sauna, the mens' and womens' restrooms, the electrical equipment room, the pump room, and the storage area.

(d) The trash receptacle area, swimming pool, swimming pool deck, and associated equipment.

(e) The driveways, sidewalks, loading areas, ramps, tennis courts, and the five (5) parking stalls which are not reserved for the exclusive use of a particular apartment.

(f) All central and appurtenant installations for all services such as power, light, gas, hot and cold water, and all like utilities.

(g) The elevator, its elevator shaft and pit, elevator machine room, and appurtenant installations and apparatus.

(h) All of the parts of the project existing for the common area use and which are necessary to the existence, maintenance and safety of the project.

LIMITED COMMON ELEMENTS: Certain parts of the Project, herein called and designated as "Limited Common Elements", will be set aside and reserved for the exclusive use of certain apartment units as follows:

(a) One (1) parking space shall be appurtenant to and for the exclusive use of each apartment. The Declaration contains a designation of the specific parking space appurtenant to each apartment, and such designation is also shown on Exhibit "A" attached hereto.

(b) Each apartment shall have reserved for its exclusive use, as a limited common element appurtenant to that apartment, one (1) mailbox.

(c) Each apartment shall have reserved for its exclusive use as a limited common element appurtenant to that apartment one (1) storage locker in the storage room.

(d) Each apartment shall have reserved for its exclusive use as a limited common element appurtenant to that apartment one (1) roof-top air conditioning unit and all costs of operation and maintenance thereof shall be the responsibility of the apartment owner.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment has appurtenant an undivided common interest in the common elements, the percentage being based on the approximate square footage (including lanai) of each apartment. The type of apartment to which each apartment corresponds, the interior and lanai area in square feet of each apartment (measured from the outside of exterior walls and the center of interior walls), and the percentage of undivided interest in the common elements appertaining to each apartment are as follows:

<u>Apt. Unit No.</u>	<u>Type</u>	<u>Living Area Square Feet</u>	<u>Lanai Area Sq.Ft.</u>	<u>Total Area Sq.Ft. (including Lanai)</u>	<u>Percentage of Undivided Interest</u>
101	A	1,232	714	1,946	8.49635
102	B	1,232	280	1,512	6.60146
103	B	1,232	280	1,512	6.60146
104	B	1,232	280	1,512	6.60146
105	B	1,232	280	1,512	6.60146
106	B	1,232	280	1,512	6.60146
107	A	1,232	714	1,946	8.49635
201	A	1,232	714	1,946	8.49635
202	B	1,232	280	1,512	6.60146
203	B	1,232	280	1,512	6.60146
204	B	1,232	280	1,512	6.60146
205	B	1,232	280	1,512	6.60146
206	B	1,232	280	1,512	6.60146
207	A	1,232	714	1,946	<u>8.49635</u>

TOTAL 100.00000%

The above percentages of undivided interest in the common elements shall determine the amount of maintenance of the common elements required to be paid by each apartment owner and the extent of the voting of each apartment owner as a member of the Association of Owners.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration of Horizontal Property Regime states the purposes for which the building and other improvements and each of the condominium apartments are intended and the uses to which they are restricted as follows:

(a) Each apartment is designated exclusively residential. The apartments shall be occupied and used as living accommodations for permanent or transitory use and may be leased or rented from time to time for transient occupancy by the respective owners thereof, their tenants, families, domestic servants, and social guests.

(b) All apartments shall be subject to and used only in accordance with the allowable uses according to the zoning ordinances of the County of Hawaii.

OWNERSHIP TO TITLE: A Preliminary Report dated January 4, 1979, and prepared by Security Title Corporation, certifies that title to the land is vested in Big Island Properties.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated January 4, 1979, and prepared by Security Title Corporation shows the following encumbrance:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Third Division.

2. That certain mortgage by and between Big Island Properties as mortgagor and Anita Cordes, widow of Jacques Cordes, as mortgagee, recorded in the Bureau of Conveyances of the State of Hawaii in Book 13111, at Page 431.

PURCHASE MONEY HANDLING: An Escrow Agreement dated January 12, 1979, has been executed by the Developer and Security Title Corporation as the escrow, and a copy of same has been filed with the Real Estate Commission. On examination, the specimen form of Sales Contract and the executed Escrow Agreement are consonant with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, particularly Sections 514A-39, 514A-63, 514A-64, and 514A-66.

Among other provisions, the specimen Sales Contract provides the following:

(1) That in the event development and construction of the project is delayed for any of various reasons, the non-occurrence of which was a basic assumption on which the agreement was made, the seller

may require an increase in the sale price, terminate the agreement, and offer to the buyer a first right to execute a new agreement at the increased price; if the buyer does not accept such increase within fifteen (15) days of notice thereof, and upon refund of all deposits to the buyer, the parties are completely discharged from any further obligation under the contract.

(2) The Developer intends to undertake a construction loan for a portion of the costs of construction of the project and will mortgage the land and the seller's interest in the project to the construction lender. The purchaser should be aware that the seller's mortgage loan 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 any claim under their sales contracts in favor of such mortgage loan. The purchasers are advised that paragraph 20 of the Sales Contract prohibits assignment of the Sales Contract without the written consent of the seller, and any assignment or attempted assignment shall constitute a material breach, giving the seller the right to terminate the contract and retain all sums theretofore paid.

It is incumbent upon the purchaser and prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The latter Agreement establishes how the proceeds from the sale of condominium units are placed in trust, as well as the retention and disbursement of those funds.

MANAGEMENT OF THE PROJECT: The By-Laws of the Association of Apartment Owners vest in the Board of Directors the power and duties necessary for the administration of the affairs of the Association of Apartment Owners of the Project. The Board of Directors of the Association of Apartment Owners may employ necessary personnel to carry out management and operation functions of the Project. The Declaration of Horizontal Property Regime submitted to the Real Estate Commission permits the Developer to appoint the initial managing agent.

A copy of a Property Management and Agency Agreement dated January 15, 1979, between the Developer for and on behalf of the Association of Apartment Owners of Holualoa Bay Villas and Aaron M. Chaney, Inc., a Hawaii corporation, as agent, has been filed with the Real Estate Commission. This Agreement gives the agent the authority to manage the project and is subject to ratification and confirmation by the Board of Directors of the Association at the time it is organized. The purchaser should read the Property Management and Agency Agreement.

HOUSE RULES: The proposed House Rules provide that household pets of any kind are prohibited and no owners, occupants, tenants, guests, or visitors are permitted to retain pets in the premises.

STATUS OF PROJECT: The Notice of Intention indicates that on January 15, 1979, the Developer entered into a General Construction Contract with C. M. Poulton Corporation, a Hawaii corporation, licensed to do business as a general contractor in the State of Hawaii, to undertake construction of the project. The Developer advises that construction of the project is expected to commence on or about January 30, 1979. The Developer estimates that construction of the project will be substantially completed in or about October 31, 1979.

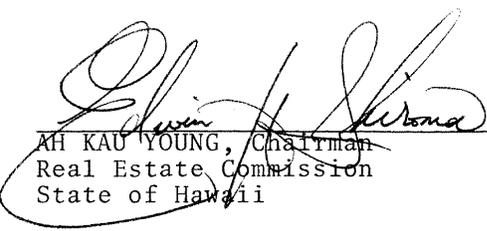
FINANCING: The Developer advises that the cost of the project will be paid from (1) funds available through a construction loan, and (2) authorized disbursements by the escrow agent pursuant to Section 514A-67, Hawaii Revised Statutes, as amended.

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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 on January 16, 1979.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1077 filed with the Real Estate Commission on January 16, 1979.

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

  
AH KAU YOUNG, Chairman (for)  
Real Estate Commission  
State of Hawaii

Distribution:

Department of Taxation  
Bureau of Conveyances  
Planning Department,  
County of Hawaii  
Escrow Agent  
Federal Housing Administration

Registration No. 1077

February 14, 1979

EXHIBIT "A"

PARKING STALL ASSIGNMENTS

<u>Parking Stall No.</u>	<u>Apartment No.</u>
2	101
3	201
5	102
6	202
7	103
8	203
10	104
11	204
12	105
13	205
14	106
15	206
17	107
18	207