

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
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HONOLULU, HAWAII 96801

FINAL
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT
ON

KIAHUNA (PHASE V)
Poipu, Island and County of Kauai

REGISTRATION NO. 1080

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: October 16, 1979
Expires: November 16, 1980

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 JANUARY 25, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY SUBMITTED AS OF OCTOBER 5, 1979. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514A, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report of February 26, 1979, on KIAHUNA (PHASE V), the Developer reports that changes have been made in the plans or set-up of the Project. The changes subsequently made are determined to be a material revision to the information disclosed earlier.

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

3. The Developer advises that the Declaration of Horizontal Property Regime dated September 5, 1979, with By-Laws of the Association of Apartment Owners annexed thereto have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 967779. The approved floor plans have also been filed in said Office of the Assistant Registrar and designated Condominium Map No. 392.

4. No advertising or promotional matter has been filed pursuant to the rules and regulations promulgated by the Commission.

5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Horizontal Property Act, Chapter 514A of the Hawaii Revised Statutes, as amended, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

6. This Final Public Report is made a part of the registration on KIAHUNA (PHASE V) 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 together with a copy of the Preliminary Public Report (yellow paper stock). Securing a signed copy of the Receipt for these Horizontal Property Regime Public Reports from each purchaser is also the responsibility of the Developer.

7. This Final Public Report automatically expires thirteen (13) months after the date of issuance, October 16, 1979, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

The information disclosed in the Preliminary Public Report of February 26, 1979, in the topical headings hereinafter set forth has been amended. Information disclosed in the remaining topical headings has not been disturbed.

COMMON ELEMENTS:

NOTE: The Developer advises that pursuant to the provisions of Paragraph N of the Declaration that it has reserved the right in its sole discretion at any time and from time to time to amend the Project by the relocation, removal and/or addition of amenities to the common elements of the Project including without limitation to the generality of the foregoing, cabanas, benches and/or storage and maintenance sheds.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that:

1. Use. The beachhouses shall be used by the respective owners thereof, their family, guests and tenants only for residential purposes including resort hotel use and for no other purpose.

2. Time-Sharing Prohibited. The beachhouses in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time-interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess a beachhouse or beachhouses in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise.

ENCUMBRANCES AGAINST TITLE: An updated Preliminary Title Report dated September 13, 1979, issued by Security Title Corporation as submitted to the Real Estate Commission discloses that the following are presently encumbrances against title to the property:

1. That certain Increment Lease No. 1, dated January 1, 1979, by and between First Hawaiian Bank and Valdemar L'Orange Knudsen, Trustees of the Eric A. Knudsen Trust and Bishop Trust Company, Limited, Trustee of the Augustus F. Knudsen Trust, as Lessor, and Moana/Kauai Corporation, as Lessee, filed in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 919328.

Said Lease is subject to the following:

(a) Mortgage dated May 29, 1979, filed in said Office of the Assistant Registrar as Document No. 945452, in favor of BANK OF HAWAII.

(b) Estoppel Certificate dated April 2, 1979, filed in said Office of the Assistant Registrar as Document No. 945451.

2. Designation of Easement "H" located over and across the westerly (side) portion of Lot 2, as shown on Map 1, as set forth by Land Court Order No. 35148, filed May 23, 1972.

3. For any taxes that may be due and owing reference is made to the Tax Assessor, Fourth Division.

NOTE: The Developer advises that the Mortgage described in paragraph 1(a) above will be partially released prior to or concurrently with the recordation of the Apartment Lease demising each individual apartment so as to comply with the requirements of Section 514A-18 of the Hawaii Revised Statutes.

NOTE: The Developer further advises that the following have been reserved pursuant to the provisions of the Declaration:

1. Pursuant to the provisions of Paragraph F.6 of the Declaration, the Developer has reserved the right at any time and from time to time to post on or within the common elements of the Project, such signs in reasonable number and size as it deems necessary to adequately identify this Project, the location of the Kiahuna Sales Office, the other Kiahuna condominium projects and the Plantation Gardens Restaurant, and the Developer further reserves the right at any time and from time to time to post on or within the common elements of the Project, a sign indicating the location of and direction to the Waiohai project being constructed on adjacent property; provided further that these reserved rights shall not be modified, amended or terminated without the prior written consent of Developer.

2. Pursuant to Paragraph R of the Declaration, the owners and lessees from time to time of all or any portion of the real property described in Exhibit "A-1" to the Declaration and their respective families, tenants, customers, guests, employees, servants, agents and business invitees are granted a nonexclusive right in the nature of an easement to use all roadways and walkways of the Project for vehicular and pedestrian access purposes over, across and through the common elements of the Project; subject, however, to the right reserved to Owners and Developer to relocate the same.

3. The Owners and Developer have reserved the right to grant or lease a nonexclusive roadway easement for access purposes over and across the roadways of the Project as shown on said Condominium Map to the general public and/or the owners and lessees from time to time of all or any portion of the real property more particularly described in Exhibit "A-1" to the Declaration and made a part hereof and their respective families, tenants, guests, employees, servants and business invitees; provided, however, that Owners and Developer reserve the right to relocate said roadway easement provided that said roadway easement shall not be relocated through or within any existing structure on said property and shall not disturb unnecessarily the enjoyment and use of said property or the improvements thereon or materially restrict the use of said roadway easements as relocated; and provided further that in the event that said roadway is conveyed or dedicated to the State of Hawaii, County

of Kauai, or to any other governmental authority, the easement as to the lot or lots conveyed or dedicated shall immediately terminate.

4. The Owners and Developer have reserved the right to grant or lease to any public utility, governmental authority, State of Hawaii, County of Kauai, or agencies thereof, or other corporation, partnership, association or individual any and all easements for drainage, sewer and water pipelines, electrical and telephone lines and any utilities serving the Project together with the right to grant or lease such rights-of-way over, across and under said easements for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage and other public services and utilities, and the right to enter for such purposes and to repair such facilities and to trim any trees in the way of such lines.

STATUS OF PROJECT: The Developer advises that it has entered into a Construction Contract with Kenneth Shioi & Co., Ltd. to construct the Project and that construction of the Project commenced on April 23, 1979 and estimates that construction will be completed on or about March 15, 1980.

The purchaser and 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 January 25, 1979, and information subsequently submitted as of October 5, 1979.

This is a FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 1080 filed with the Commission January 25, 1979. 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

Distribution:

DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING COMMISSION, COUNTY OF KAUAI
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 1080

October 16, 1979