

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

WAIKOMO STREAM VILLAS
Poipu Beach and Poipu Beach Road
Poipu, Koloa, Kauai, Hawaii

REGISTRATION NO. 1083

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: March 14, 1979
Expires: April 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 31, 1979 AND INFORMATION
SUBSEQUENTLY FILED AS OF MARCH 8, 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.

1. WAIKOMO STREAM VILLAS is a proposed fee simple residential condominium project which shall consist of seven (7) buildings containing sixty (60) residential apartments. The Project will also contain a swimming pool, tennis court and parking areas which will provide ninety (90) parking stalls.

2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for the registration of this proposed condominium project and the issuance of this Preliminary Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved floor plans) have not yet been filed in the office of the recording officer.

4. No advertising and promotional materials 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 Chapter 514A, Hawaii Revised Statutes, and the condominium rules and regulations which relate to horizontal property regimes.

6. This Preliminary Public Report is made a part of the registration of the WAIKOMO STREAM VILLAS condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed receipt for said Preliminary Public Report from all purchasers and prospective purchasers is also the responsibility of the Developer.

7. This Preliminary Public Report automatically expires within thirteen (13) months after date of issuance, March 14, 1979, unless a Final or Supplementary Public Report is issued or the Commission, upon review of the registration, issue an order extending the effective period of this report.

NAME OF PROJECT: WAIKOMO STREAM VILLAS.

LOCATION: The land of the Project, consisting of approximately 4.054 acres, is situate at the intersection of Poipu Road and Poipu Beach Road, Kauai, Hawaii.

TAX KEY: Fourth Division, 2-8-15:76 and 79

ZONING: R-20 (Parcel 76) and Open (Parcel 79)

DEVELOPER: Waikomo Stream Associates, a Hawaii general partnership, whose principal place of business and post office address is P. O. Box 638, Koloa, Kauai, Hawaii. Telephone number: 742-6196. The Partners of said general partnership are as follows:

Eugene N. Evanetz & Associates, Inc.
P. O. Box 638
Koloa, Kauai, Hawaii

GSM Corp.
Suite 800, 345 Queen Street
Honolulu, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Mukai, Ichiki, Raffetto & MacMillan (Attention: Richard G. MacMillan), 345 Queen Street, Suite 800, Honolulu, Hawaii. Telephone number 531-6277.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal Property Regime, describes the project as follows:

1. Description of Buildings. The Project will consist of seven (7) buildings containing a total of sixty (60) residential units (hereinafter called "apartments"), which buildings are designated as Buildings "1" through "7", inclusive. Buildings "1" through "5" will be three-story structures without a basement and each of said buildings will contain twelve (12) apartments, with four (4) apartments on each of its three floors. Building "6" will be a one-story recreational building located adjacent to the swimming pool, and will contain men's and womens' lavatory and shower facilities and an equipment room. Building "7" will be a one-story maintenance building.

Each of the buildings will be primarily of wood construction with wood framing and siding and monier tile roofs. However, said buildings shall be also incorporate concrete, glass, aluminum, gypsum and particle board and allied building materials. In addition to said buildings, the Project will also contain a swimming pool, tennis court and a parking area providing ninety (90) parking spaces.

2. Description of Apartments. The Project is divided into sixty (60) separately designated condominium apartments. The numbering, unit type, approximate gross area in square feet and number of rooms of each apartment in the common elements are as follows:

<u>Apartment No.</u>	<u>Floor Plan Type</u>	<u>Approx. Living Area ind Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>
<u>Building 1</u>				
100	D	996	108	5
101	C	996	108	5
102	C	996	108	5
103	D	996	108	5
120	D	996	108	5
121	C	996	108	5
122	C	996	108	5
123	D	996	108	5
130	B	1,400	108	7
131	A	1,400	108	7
132	A	1,400	108	7
133	B	1,400	108	7
<u>Building 2</u>				
200	D	996	108	5
201	C	996	108	5
202	C	996	108	5
203	D	996	108	5
220	D	996	108	5
221	C	996	108	5
222	C	996	108	5
223	D	996	108	5
230	B	1,400	108	7
231	A	1,400	108	7
232	A	1,400	108	7
233	B	1,400	108	7
<u>Building 3</u>				
300	D	996	108	5
301	C	996	108	5
302	C	996	108	5
303	D	996	108	5
320	D	996	108	5
321	C	996	108	5
322	C	996	108	5
323	D	996	108	5
330	B	1,400	108	7
331	A	1,400	108	7
332	A	1,400	108	7
333	B	1,400	108	7
<u>Building 4</u>				
400	D	996	108	5
401	C	996	108	5
402	C	996	108	5
403	D	996	108	5
420	D	996	108	5
421	C	996	108	5

422	C	996	108	5
423	D	996	108	5
430	B	1,400	108	7
431	A	1,400	108	7
432	A	1,400	108	7
433	B	1,400	108	7

Building 5

500	D	996	108	5
501	C	996	108	5
502	C	996	108	5
503	D	996	108	5
520	D	996	108	5
521	C	996	108	5
522	C	996	108	5
523	D	996	108	5
530	B	1,400	108	7
531	A	1,400	108	7
532	A	1,400	108	7
533	B	1,400	108	7

All areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls, and no reduction has been made to account for interior walls, ducts, vent shafts and the like located within the perimeter walls.

3. Types of Apartments.

(1) Subject to minor variations in their respective floor plans, each of the twenty (20) apartments designated hereinabove as Types "A" and "B" shall contain an entry foyer, living room, dining/family room, bedroom, kitchen, bathroom and lanai on the first floor and a bedroom and bathroom with separate dressing area on the second or loft level.

(2) Subject to minor variations in their respective floor plans, each of the forty (40) apartments designated hereinabove as Types "C" and "D" will contain an entry foyer, living room, dining/family room, one bedroom, a bathroom, a kitchen and an adjacent lanai.

4. Access. Each apartment on the ground floor of its building has immediate access to its entries and to the walkways connecting said building to the grounds and recreational areas of the Project. Each apartment above the ground floor has immediate access to its entries and to a stairway leading to the ground floor.

5. Limits of Apartments. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment, any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the

same being deemed common elements as hereinafter provided. Subject to the foregoing, each apartment shall include all of the walls and partitions which are not load-bearing within its perimeter walls, any glass windows or panels within its perimeter, the inner decorated or finished surfaces of all walls, floors and ceilings, all adjacent lanais, and any fixtures and appliances originally installed therein.

COMMON ELEMENTS: The proposed Declaration states that the common elements shall include but shall not be limited to:

(a) All the land of the Project.

(b) All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls (except for the inner decorated surface within each unit), roofs, stairways, walkways, entrances and exits of said buildings.

(c) All yards, grounds, walkways, landscaping, refuse facilities, the maintenance and storage building, the swimming pool and its filtration equipment, the tennis court, and all other recreational facilities and appurtenances.

(d) All driveways and parking areas.

(e) All ducts, sewer lines, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities, installations which serve more than one apartment for services such as power, light, water, gas, air conditioning, refuse, telephone and radio and television signal distribution.

(f) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that certain parts of the common elements, hereinafter called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are listed below.

(a) The stairways of each building providing access for the apartments on the second and third floors thereof shall be appurtenant to and for the exclusive use of the apartment or apartments served thereby.

(b) All other common elements of the Project which are related to less than all of said apartments or buildings shall be limited to the use of such apartment or buildings.

PARKING LICENSE: Each apartment owner shall have the right and license to park one (1) passenger car, or other vehicle which

is no larger than an ordinary passenger car, in the parking areas at all times and from time to time. The owner's parking license for each apartment is appurtenant to that apartment and may not be leased or transferred independently of, or in any other manner separated from, the apartment to which it is appurtenant and shall be deemed to be leased, conveyed, encumbered or transferred with the apartment even though the owner's parking license is not expressly mentioned or described in the conveyance or other instrument. The Board of Directors of the Association shall at all times have sole and exclusive control over the determination where within the parking areas any vehicle which is being parked pursuant to the owner's parking license shall be parked from time to time. However, no space will be permanently assigned to any owner or apartment. The Board shall have the further right to designate the parking stalls to be utilized for guest parking.

COMMON INTEREST: The Developer shall, by way of Apartment Deed, convey the fee simple interest in each apartment and an undivided interest in the common elements appurtenant thereto, to the purchaser of said apartment. The percentage interest appurtenant to each apartment (herein called the "common interest") in all common elements of the Project and in all common profits and expenses of the Project and for all other purposes including voting shall be as set forth below:

<u>Apartment Unit Type</u>	<u>Undivided % Interest</u>	<u>No. of Apartment</u>	<u>Total Undivided % Interest</u>
A and B	2.02908	20	40.5816
C and D	1.48546	<u>40</u>	<u>59.4184</u>
TOTALS		60	100.0000

RESTRICTIONS AS TO USE: The apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and may be utilized in long-term or transient rentals. The owners of the respective apartments shall have the absolute right to rent or lease such apartments subject to all provisions of the proposed Declaration.

The House Rules provides, in part, that no livestock, poultry, rabbits, or other animals whatsoever shall be allowed or kept in any part of the Project.

OWNERSHIP OF TITLE: A preliminary title report, dated February 28, 1979 issued by Long & Melone, Ltd., indicates that fee simple title to the land is vested in the Developer, Waikomo Stream Associates.

ENCUMBRANCES AGAINST TITLE: The preliminary title report referred to above reports that title to the land is subject to the following:

AS TO BOTH PARCELS 76 AND 79

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

2. Mortgage dated February 2, 1979, from Waikomo Stream Associates, a Hawaii general partnership in favor of Maurice E. Goodin, husband of Shirlee M. Goodin, filed as Land Court Document No. 923674 and recorded in the Bureau of Conveyances in Liber 13493 at Page 295;

3. Mortgage dated February 2, 1979, from Waikomo Stream Associates, a Hawaii general partnership, in favor of 106250 Holdings Ltd., a corporation organized under the laws of the Province of Alberta, Canada, filed as Land Court Document No. 925370 and recorded in said Bureau in Liber 13513 at Page 531.

AS TO PARCEL 76

4. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

5. Rights of: (a) heirs of Kamae 2 or persons holding under such heirs after than Kalua, also known as Captain Kalua; (b) heirs of Kapule or persons holding under such heirs; and (c) heirs of John P. Neal other than John W. Neal, Surraney Ann Conant, Thomas Russell Neal, Henrietta Rose Campsie, Daisy Elizabeth Neal, David N. Neal, Elner Charles Neal, Daniel Joseph Neal and Rebecca Ellen Schemmelfennig.

NOTE: The Developer has advised the Commission that a quiet title action will be instituted for the purposes of expunging the claims of all persons described in item 5 above. Developer has been advised by legal counsel that said quiet title action should be favorably concluded and all adverse claims against the property extinguished prior to the conveyance of any apartment.

AS TO PARCEL 79

6. Free flowage of Waikomo Stream.

7. The provisions of that certain instrument dated August 27, 1937, filed as Land Court Document No. 40955, as set forth in that certain Deed dated April 11, 1972, filed as Land Court Document No. 581668.

8. Easement O-1 (12 feet wide, as shown on Map 27, along the southerly boundary of Lot 194, as set forth by Land Court Order No. 20122.

PURCHASE MONEY HANDLING: An executed Escrow Agreement, dated January 22, 1979, identifies Long & Melone, Ltd., a Hawaii corporation, as the escrow agent. Upon examination, the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes.

Among other provisions, the Escrow Agreement provides that a purchaser under a Sales Contract shall be entitled to a return of his funds, without interest and less the \$25.00 escrow cancellation fee, after purchaser has requested such return and if Escrow shall have received from Developer a written notice that any one of the following has occurred:

(a) Developer shall have requested Escrow to return to purchaser the funds of purchaser then being held by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to rescind the Sales Contract pursuant to any right of rescission stated therein or otherwise available to Developer; or

(c) There shall have been a change in the building plans of the Project subsequent to the date of Developer's execution of the Sales Contract which change requires the approval of a county officer having jurisdiction over the issuance of building permits unless the purchaser gives his written approval or acceptance of the specific change; or

(d) The Final Report differs in a material respect from this Preliminary Report unless the purchaser has given written approval or acceptance of the changes in said Final Public Report; and

(e) The Final Report shall not have been issued within one (1) year from the date of issuance of this Preliminary Report.

Among other provisions, the specimen Deposit Receipt and Sales Contract states: (1) If the Project is not completed and ready for occupancy within two (2) years from the date of Buyer's execution of the Sales Contract, then Buyer shall have the right to terminate the Sales Contract and Developer shall cause Escrow to refund all payments previously made without interest, less \$25.00 cancellation fee and Developer shall be relieved and released of all further liability; and

(2) Buyer should be aware that he will be required to prepay two (2) months maintenance fee which shall constitute a non-refundable, start-up fee or maintenance reserve; and

(3) ALL OF BUYER'S RIGHT, TITLE AND INTEREST UNDER THE SALES CONTRACT ARE AND SHALL BE SUBJECT AND SUBORDINATE TO THE LIEN OF ANY MORTGAGE MADE BY DEVELOPER TO ANY INSTITUTIONAL LENDER FOR THE PURPOSE OF SECURING THE REPAYMENTS OF A CONSTRUCTION LOAN.

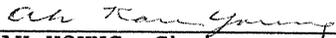
It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Deposit Receipt and Sales Contract, since the Escrow Agreement describes the procedure for receiving and disbursing purchasers' funds, and the Deposit Receipt and Sales Contract specifically provides that the purchaser approves that Escrow Agreement and assumes the benefit and obligations therein provided.

MANAGEMENT OF PROJECT: The By-Laws, which are incorporated in the Declaration, provide that the operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The Developer has not yet selected the initial Managing Agent.

STATUS OF PROJECT: Construction of the Project will commence on or about June 1, 1979 and will be completed approximately one (1) year thereafter.

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 January 31, 1979 and information subsequently filed as of March 8, 1979.

This is a SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT, which is made a part of REGISTRATION NO. 1083, dated January 31, 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 yellow.



AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

Distribution:

Department of Taxation
Bureau of Conveyances
Planning Commission,
County of Kauai
Federal Building Administration
Escrow Agent

Registration No. 1083

March 14, 1979