

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

KONA ISLANDER INN
Kuakini Highway
Kailua-Kona, Hawaii

REGISTRATION NO. 1095

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 16, 1979
Expires: April 16, 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 FEBRUARY 22, 1979 AND INFORMATION FILED AS OF MARCH 13, 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. KONA ISLANDER INN is a proposed leasehold condominium conversion project consisting of one hundred forty-five (145) apartment units all in accordance with plans to be filed in the Bureau of Conveyances of the State of Hawaii.

2. The Developer has submitted to the Commission for examination all documents necessary for the issuance of this Preliminary Public Report.
3. No advertising or promotional matter has been submitted to the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the proposed Condominium Map) have not been recorded as of this date 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, the Horizontal Property Act and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, March 16, 1979, unless a Final or Supplementary Public Report is issued, or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of the registration on the "KONA ISLANDER INN" 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 and for securing a signed copy of the Receipt for Horizontal Property Regime Preliminary Public Report from such persons.

NAME OF PROJECT: KONA ISLANDER INN.

LOCATION: The land submitted to the Regime, approximately 102,486 square feet, is located in Kailua-Kona, Hawaii.

TAX MAP KEY: THIRD DIVISION 7-5-08:03.

ZONING: Hotel .75.

DEVELOPER: KONA ISLANDER INN CORPORATION, a Hawaii corporation whose principal place of business and post office address is Suite 346, 1221 Kapiolani Boulevard, Honolulu, Hawaii, Telephone 523-3860.

Officers:

<u>Name</u>	<u>Office</u>	<u>Address</u>
J. Dewar Millar	President, Secretary, Treasurer	Suite 346 1221 Kapiolani Boulevard Honolulu, Hawaii 96814

Jay H. Shidler Vice-President Suite 1930
 841 Bishop Street
 Honolulu, Hawaii 96813

ATTORNEY FOR DEVELOPER: Carlsmith, Carlsmith, Wichman and Case, 190 South King Street, Honolulu, Hawaii 96813 (Attention: David L. Irons or Ray Iwamoto), Telephone 523-2500.

DESCRIPTION: The Project consists of seven three (3) level buildings, without basements, containing residential and commercial apartments. The buildings are constructed principally of wood, glass, concrete hollow tile, and other allied building materials. The proposed Declaration of Horizontal Property Regime describes the Project as follows:

1. The location of the one hundred forty-five (145) apartments are shown on the Condominium Map and further described and numbered as follows:

<u>Building</u>	<u>Floor</u>	<u>Apartment No.</u>	<u>Apartment Type</u>
A	1	100	D
		101	D
		102	D
		103	D
		110	D
		111	D
		112	D
		104A	A
		114B	B
		105C	C
	2	200	E
		201	E
		202	E
		203	E
		204	E
205		E	
206		E	
209		E	
3	304	E	
	305	E	
	306	E	
	309	E	
	308	F	
B	1	115	E
		116	E
		117	E
		118	E
		119	E
		120	E
		121	E
		122	E

<u>Building</u>	<u>Floor</u>	<u>Apartment No.</u>	<u>Apartment Type</u>	
C	2	215	E	
		216	E	
		217	E	
		218	E	
		219	E	
		220	E	
		221	E	
		222	E	
	3	315	E	
		316	E	
		317	E	
		318	E	
		319	E	
		320	E	
		321	E	
		322	E	
	1	1	123	E
			124	E
			125	E
			126	E
			127	E
			128	E
			129	E
			2	223
		224		E
		225		E
		226		E
		227		E
		228		E
		229		E
		3		323
			324	E
325	E			
326	E			
327	E			
328	E			
329	E			
D	1		130	E
		131	E	
		132	E	
		133	E	
	2	230	E	
		231	E	
		232	E	
		233	E	
	3	330	E	
		331	E	
		332	E	
		333	E	

<u>Building</u>	<u>Floor</u>	<u>Apartment No.</u>	<u>Apartment Type</u>
E	1	134	E
		135	E
		136	E
		137	E
		138	E
		139	E
		140	E
	141	E	
	2	234	E
		235	E
		236	E
		237	E
		238	E
		239	E
		240	E
	241	E	
	3	334	E
		335	E
		336	E
		337	E
		338	E
339		E	
340		E	
341	E		
F	1	142	E
		143	E
		144	E
		145	E
		146	E
		147	E
	2	242	E
		243	E
		244	E
		245	E
		246	E
	247	E	
	3	342	E
		343	E
344		E	
345		E	
346		E	
347	E		
G	1	148	E
		149	E
		150	E
		151	E
		152	E
	153	E	
	2	248	E
		249	E
		250	E
		251	E
252		E	
253	E		

<u>Building</u>	<u>Floor</u>	<u>Apartment No.</u>	<u>Apartment Type</u>
	3	348	E
		349	E
		350	E
		351	E
		352	E
		353	E

2. The apartments are further described as follows:

(a) TYPE A. The TYPE A apartment consists of one room, subject to partition and a floor area of approximately 810 square feet.

(b) TYPE B. The TYPE B apartment consists of one room, subject to partition and a floor area of approximately 439 square feet.

(c) TYPE C. The TYPE C apartment consists of one room subject to partition and a floor area of approximately 126 square feet.

(d) TYPE D. The TYPE D apartment is a studio apartment consisting of a single room, a bathroom/dressing room and one lanai for a floor area of approximately 372 square feet not counting the lanai. The lanai has a floor area of approximately 67 square feet.

(e) TYPE E. The TYPE E apartment is a studio apartment consisting of a single room, a bathroom/dressing room and one lanai for a floor area of approximately 372 square feet not counting the lanai. The lanai has a floor area of approximately 67 square feet.

(f) TYPE F. The TYPE F apartment is a one-bedroom apartment which consists of one bedroom, a bathroom/dressing room, a living room, a kitchenette unit and one lanai for a floor area of approximately 529 square feet not counting the lanai. The lanai has a floor area of approximately 69 square feet.

3. The square footage areas for the respective apartment types are computed from and to the center lines of the apartment perimeter party walls and perimeter walls directly across the party walls and to the exterior surface of all other apartment perimeter walls, not including the area to the edge of the lanais.

4. Each apartment has immediate access to a corridor or gallery which leads to stairways, each stairway leading to the ground floor or common elements leading to the grounds and roadways of the Project.

5. 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 or 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. 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 walls, floors and ceilings, and the fixtures installed therein, including refrigerator, carpeting, drapery hardware and, except for Types B and C apartments, an air conditioner.

COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime reflects that the common elements shall include all other portions of the Project specifically, but not limited to:

(a) Said land in fee simple.

(b) The easements described in Exhibit A attached to the Declaration.

(c) All foundations, floor slabs, columns, girders, beams, supports, other structural members, unfinished perimeter and load-bearing walls.

(d) All yards, grounds, landscaping, planters, fences, mail boxes, refuse facilities, lounge deck, lobby, manager's office, office, laundry room, linen rooms, service building, two men's rooms and two women's rooms and the other open areas.

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

(f) All roadways, sidewalks, stairways, elevators, and driveways, which are rationally of common use including 51 parking stalls which are numbered from 1 through 51 on the Condominium Map.

(g) Swimming pool, hot tub, two barbecues.

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

LIMITED COMMON ELEMENTS. There are no limited common elements.

INTEREST TO BE CONVEYED TO PURCHASER: The undivided percentage ownership in the common elements (the "Common Interest") appertaining to each apartment (by type) and its owner for all purposes including voting shall be Type A, 1.23493%; Type B, .68366%; Type C, .19621%; Type D, .68366%; Type E,

.68366% and Type F, 1.08640%. Each apartment and its appurtenant Common Interest exclusive of land shall be deeded to each purchaser by an apartment deed and a percentage interest in the land equal to the percentage common interest will be leased to each purchaser by a 100 year ground lease, the apartment deed and ground lease being parts of a Condominium Conveyance Document.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that the buildings and the apartments may only be used for any permitted purposes under applicable laws and governmental regulations including residential or commercial uses, provided, however, that the Type E and Type F apartments may only be used as dwellings by the respective owners thereof, their tenants, guests, families and domestic servants and for no other purpose, except that they may also be rented for transient residential use, as permitted by law. The owners of apartments have the right to lease or rent their apartments to third parties, subject to all of the provisions of the Declaration and By-Laws which should be reviewed by the Purchaser.

Purchasers and prospective purchasers are advised to read with care the House Rules for the Project which among other things prohibits any pets in the Project.

OWNERSHIP TO TITLE: The Preliminary Title Report issued January 26, 1979, and prepared by Title Guaranty of Hawaii, Inc. states that title to the land is vested in Islander Inns, Incorporated. The Developer and Islander Inns, Incorporated have executed an Option Agreement, whereby upon Developer's execution of the option, Islander Inns, Incorporated will lease the land and the improvements thereon to the Developer by issuing a Master Lease to the Developer.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report dated January 26, 1979, prepared by Title Guaranty of Hawaii, Inc. describes the following encumbrances:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Third Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Designation of Easement "A" (2,180 square feet), located over and across the southerly portion of Lot 1, as shown on Map 2, as set forth by Land Court Order No. 25106, filed January 11, 1966.
4. Mortgage in favor of Aetna Life Insurance Company dated December 10, 1970, filed as Land Court Document No. 521564.

The Developer has informed the Commission that it may or may not place a mortgage on the property. The respective liens of this mortgage, if placed, and the mortgage described above will be released and discharged of record as to each

condominium apartment prior to its being transferred to a purchaser.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated February 12, 1979, between Title Guaranty Escrow Services, Inc., as Escrow Agent, and Developer, has been filed with the Commission. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended.

NOTE: Prospective purchasers should be aware that:

1. If the Developer places a mortgage on the property, the Mortgage and other liens which will secure the Developer's first mortgage loan (renewals and extensions) for the renovation of the Project shall be and remain at all times a superior lien on the Project, and purchasers intentionally waive and subordinate their interests under the Sales Contract or any reservation agreement in favor of the priority of all such liens.

2. Purchaser should also note that the Sales Contract places restrictions on the Apartment Owners, precluding them from entering into any rental pool or other rental-sharing arrangements with other such Apartment Owners until after the sale by the Developer of all of the units in the Project.

3. As provided in Section D.22 of the Sales Contract, the purchaser acknowledges that renovation activity may continue on the Project after purchaser has occupied his apartment, which may result in noise, dust or other annoyances. In addition, as further provided in said Section D.22, the Developer's sales activities, including the use of model units and signs for sales displays and related activities, may continue until the last apartment in the Project is sold.

4. The purchaser's attention is directed to paragraph L of the Declaration and Section D.6 of the Sales Contract, all of which reserves to the Developer a right to make certain amendments that may be necessary to comply with the provisions of law, the requirements of certain mortgagees, or to carry out the changes to the Project set forth in said paragraphs.

5. The purchaser should be especially aware of Section D.17 of the Sales Contract which provides that the buildings and the apartments, which were completed in 1969, are being sold in an "as is" condition. The Developer is not familiar with the structural quality or integrity of the buildings or the mechanical soundness of any of the systems of the buildings or the fixtures contained in individual apartments. Purchasers should, therefore, realize that they assume all risks of defects, whether latent or otherwise, and any failure or deterioration with respect thereto. The Developer does not warrant the structural quality or integrity of the buildings or the mechanical soundness of any of

the systems of the buildings or the individual apartments. The Developer intends to install in each apartment only a refrigerator which will be warranted by the manufacturer and the Developer makes no warranties with respect to such refrigerators. All other items, including an air conditioner, furniture and equipment are sold "as is", without warranty express or implied.

6. Purchasers further are advised that any and all representations, advice, or discussion of the cash flow, vacancy factors, costs, expenses, or projected income or projected expenses, or similar items regarding the current or prospective operation of the Project or parts thereof by any person in connection with the sale of the condominium units are not authorized by the Developer and the Developer specifically disclaims such representations, if any. Such representations should, therefore, not be relied upon by prospective purchasers. The Developer has not authorized, and prospective purchasers should not rely on, any representations other than those specifically contained in the condominium documentation prepared by the Developer.

7. The purchaser is advised that the Developer is selling the units in the Project pursuant to the Developer's rights under its Option Agreement with the Fee Owner and upon exercise of the option granted therein, its rights under the Master Lease to be issued by the Fee Owner. The specimen Sales Contract reserves the right in the Developer, at the Developer's option, to cancel the Sales Contract and all of the purchaser's rights thereunder, or to the land and improvements, (1) if less than 106 apartments are sold to qualified purchasers by May 1, 1979, or (2) if the seller fails to enter into the Master Lease from the fee owner or if the Master Lease is terminated for any reason, or (3) if the purchaser or any one of the purchasers should die, then Developer will cause Escrow to refund purchaser's deposit together with interest earned less escrow cancellation fees. It further provides that if the Developer fails to exercise its option to enter into the Master Lease or the Master Lease is terminated for any reason, including without limitation, a cancellation by the Fee Owner upon cancellation of or failure to consummate a certain stock purchase agreement between the Developer's shareholder/owners and the Fee Owner's shareholder/owners, or upon failure of the Seller to pay to the Lessor a certain Lease Premium, all as described in the Master Lease, then such termination shall automatically cancel and extinguish the Sales Contract and the Purchaser shall have no interests whatsoever in the land and shall have no right to require Seller or the Lessor of the Master Lease or anyone else to sell the condominium unit contracted for under the Sales Contract.

8. The purchaser should pay particularly close attention to Section D.16 of the Sales Contract whereby the purchaser agrees to make all payments, close the sale and take title to the apartment even if renovations to the apartment have not been completed and purchaser cannot take occupancy of the apartment. In such case, and if purchaser fully performs, the Developer will pay lease rent, interest

and common expenses for the purchaser, but only as provided in Section D.16 of the Sales Contract.

It is incumbent upon the prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of apartments are placed in trust, as well as the retention and disbursement of the proceeds of said trust fund. The Sales Contract sets forth when Purchaser's payments are payable. All payments other than funds from any mortgage lender must be paid to escrow at the times specified in the Sales Contract, and all of Purchaser's deposits must be paid to escrow by Preclosing which, at Developer's option, could be up to sixty (60) days prior to Developer's estimated Closing Date.

BEACH FRONT ACCESS: The Exhibit attached to the proposed Declaration of Horizontal Property Regime which describes the land which will be submitted to the Horizontal Property Regime, also describes an easement, subject to relocation, over Lot 2 which is a beachfront lot, which easement will provide the apartment owners with access to the beach for the duration of the 100 year CCD ground lease.

MANAGEMENT OF THE PROJECT: The By-Laws vest in the Board of Directors (the "Board") the power and duties necessary for the administration of the overall affairs of the Project. The By-Laws submitted to the Commission permit the Developer to appoint the initial managing agent for the Project. The Developer plans to enter into a contract with Hotel Management Corporation of the Pacific, a professional Management Company, as the initial managing agent.

STATUS OF PROJECT: The Developer has advised the Commission that the buildings were completed in 1969 and have been used for hotel purposes since that time.

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 February 22, 1979 and information subsequently filed as of March 13, 1979.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1095 filed with the Commission on February 22, 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 in color.



AH KAU YOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

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Registration No. 1095

March 16, 1979