

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

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

FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on

KOA RESORT (PHASE II)
Kihei, Maui, Hawaii

REGISTRATION NO. 1111

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: November 16, 1979

Expires: December 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 and prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED MARCH 27, 1979 AND ADDITIONAL INFORMATION SUBSEQUENTLY SUBMITTED AS LATE AS OCTOBER 31, 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 on KOA RESORT (PHASE II), Registration No. 1111, dated May 21, 1979, the Developer has prepared and forwarded additional information to that filed in the March 27, 1979 submittal.
2. The Developer has submitted to the Commission all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report prior to the completion of construction.

3. This Final Public Report is made a part of the registration on the KOA RESORT (PHASE II) condominium project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers, including those receiving the Preliminary Public Report (yellow paper stock). Securing a signed copy of the Receipt for both Reports from each purchaser and prospective purchaser is also the responsibility of the Developer.
4. Advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The basic documents (Declaration of Horizontal Property Regime, with By-Laws of Association of Apartment Owners, and a copy of the approved Floor Plans) have been filed in the office of the recording officer. The Declaration of Horizontal Property Regime executed on September 8, 1978, with the By-Laws attached, was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13224 on Page 453. By an instrument executed March 30, 1979, recorded in said Bureau in Liber 13593 on Page 709, the foregoing Declaration was amended. By an instrument executed on May 11, 1979, recorded in said Bureau in Liber 13765 on Page 450, the foregoing Declaration was further amended. The Bureau of Conveyances has designated Condominium Map No. 575 to the project.
6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Rules and Regulations promulgated thereunder which relate to the Horizontal Property Regime Act.
7. This Final Public Report automatically expires thirteen (13) months after date of issuance, November 16, 1979, unless a Supplementary Public Report is issued or the Commission, upon review of the registration issues an order extending the effective period of this report.

The information in the topical headings of the Preliminary Public Report with the exceptions of ENCUMBRANCES AGAINST TITLE and STATUS OF PROJECT has not been disturbed. The topical heading of FINANCING OF PROJECT has been added.

ENCUMBRANCES AGAINST TITLE: A Preliminary Title Report, dated September 24, 1979, and prepared by Security Title Corporation, certifies that there are no liens or encumbrances of whatever kind or nature of record against said title, save and except the following:

1. Taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the Second Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent No. 7447.

3. Easement dated September 15, 1978, recorded on September 28, 1978, in Liber 13167 on Page 290, in favor of Maui Electric Company, Limited, a Hawaii corporation.

By instrument dated September 15, 1978, recorded on September 28, 1978, in Liber 13167 on Page 297, the lien of that certain mortgage referred to in Encumbrance No. 7 below, is subordinated to the foregoing Easement.

4. Condominium Map No. 575, filed in the Bureau of Conveyances of the State of Hawaii on October 25, 1978.
5. KOA RESORT DECLARATION OF HORIZONTAL PROPERTY REGIME dated September 8, 1978, recorded on October 25, 1978, in said Bureau in Liber 13224 on Page 453, and the By-Laws attached thereto.

By instrument dated March 30, 1979, recorded on April 4, 1979, in said Bureau of Conveyances in Liber 13593 on Page 709, the foregoing Declaration was amended.

By instrument dated May 11, 1979, recorded on June 13, 1979, in said Bureau of Conveyances in Liber 13765 on Page 450, the foregoing Declaration was further amended.

6. Mortgage dated August 31, 1979, recorded on September 6, 1979, in said Bureau in Liber 13971 on Page 53, in favor of American Savings And Loan Association, a Utah corporation.
7. Mortgage dated May 3, 1978, recorded on May 24, 1978, in said Bureau of Conveyances in Liber 12912 on Page 725, in favor of LINCOLN NATIONAL BANK AND TRUST COMPANY, a National Banking Association, TRUSTEE under a Trust Agreement with HOWARD W. WINZELER, SR., dated December 12, 1969.

By instrument dated August 29, 1979, recorded on September 6, 1979, in said Bureau of Conveyances in Liber 13971 on Page 102, the lien of the foregoing Mortgage was subordinated to the lien of the Mortgage recorded in Liber 13971 on Page 53, referred to in Encumbrance No. 6 above.

8. Financing Statement, undated, given as security by Koa Resort Development Company in favor of American Savings And Loan Association, recorded on September 6, 1979, in said Bureau in Liber 13971 on Page 111.
9. Assignment of Sales Agreements and Escrow Deposits dated August 31, 1979, recorded on September 6, 1979, in said Bureau in Liber 13971 on Page 136.
10. Financing Statement, undated, given as security by Koa Resort Development Company in favor of American Savings And Loan Association, recorded on September 6, 1979, in said Bureau in Liber 13971 on Page 151.

FINANCING OF PROJECT: In the Supplement to the Notice of Intention submitted March 27, 1979, the Developer discloses that the estimated total cost to complete the project is \$2,600,000.00.

American Savings And Loan Association has loaned the Developer the principal sum of \$2,600,000.00 to fund the construction of the Koa Resort Phase II project. The American Savings And Loan Association

construction loan is secured by a first mortgage on the Koa Resort property dated August 31, 1979, recorded in said Bureau in Liber . 13971 on Page 53. The rights of the Koa Resort Phase II apartment purchasers will be subordinate to the lien of the American Savings And Loan Association construction loan mortgage on the Koa Resort property, and subordinate to the lien of the Lincoln National Bank and Trust Company mortgage on the Koa Resort property.

STATUS OF PROJECT: In the Supplement to the Notice of Intention submitted March 27, 1979, Developer discloses that Koa Resort Development Company, the owner and developer, entered upon a contract, dated May 8, 1979, with E. T. Ige Construction, Inc. for the construction of Koa Resort Phase II for the contract price of \$2,429,465.00.

E. T. Ige Construction, Inc., as Principal, and Seaboard Surety Company, as Surety, have issued Performance and Labor and Material Payment Bonds, dated September 4, 1979, to Koa Resort Development Company, each in the penal amount of \$2,429,465.00, for the work described in the construction contract.

The contractor commenced the work on June 11, 1979. As of October 1, 1979, the contractor had completed approximately thirty per cent (30%) of the work. The contractor should complete the work under the construction contract on or about March 1, 1980. (The December 20, 1979 substantial completion date under the construction contract has been extended.)

The general conditions of the construction contract (AIA Document A201, 13th ed. August 1976) provide as follows:

Section 4.5.1

"The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Paragraph 13.2."

Section 13.2.2

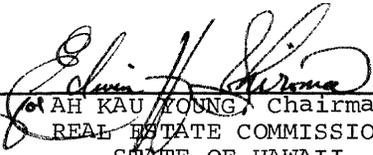
"If, within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This obligation shall survive termination of the contract. The Owner shall give such notice promptly after discovery of the condition."

Under the Koa Resort Phase II contract of sale the developer warrants the construction of the project for a period of one year after the substantial completion of the construction of the project.

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 March 27, 1979, and additional information filed as late as October 31, 1979.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1111, filed with the Commission March 27, 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 in color.


Alan 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

REGISTRATION NO. 1111

NOVEMBER 16, 1979