

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

WAIMEA BY THE SEA
Waimea, Kauai, Hawaii 96796

REGISTRATION NO. 1115

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: May 11, 1979
Expires: June 11, 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 purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED APRIL 3, 1979 AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 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. The WAIMEA BY THE SEA is a proposed fee simple condominium project in a three-story 10-unit apartment building with 22 parking stalls.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this condominium project and the issuance of the preliminary public report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners) were executed on March 8, 1979, and filed with the Office of the Assistant Registrar of the Land Court, State of Hawaii, on March 9, 1979, as Document No. Liber 13539, Page 271. A copy of the floor plans has been filed as Condominium Map No. 598 in the Office of the Assistant Registrar.
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 Chapter 514A, Hawaii Revised Statutes and the Condominium Rules and Regulations relating to Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, May 11, 1979, unless a Supplementary or Final report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Final Public Report is made a part of the registration of WAIMEA BY THE SEA 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 of securing a signed copy of the receipt for the said Report from each purchaser.

NAME OF PROJECT: WAIMEA BY THE SEA

LOCATION: The 43,760 square feet of property to be committed to the regime as a fee simple condominium project is situated at Waimea, Kauai, Hawaii.

TAX KEY: Fourth Division 1-6-7-3.

ZONING: R-10 (Residential) and O (Open).

DEVELOPER: The Developer is RT ENTERPRISES, INC. a Hawaii corporation, 1448 Kalani Street, Honolulu, Hawaii. Phone: 841-5041. The officers of the corporation and their addresses are as follows:

Robert D. Thomas	President	1088 Makaiwa Street Honolulu, Hawaii 96822
Mary K. Thomas	Vice-President	98-380 Koauku Loop Aiea, Hawaii 96701
Robert M. Thomas	Treasurer	41-109 Nenuue Street Waimanalo, Hawaii 96795

DESCRIPTION OF THE PROJECT: The project consists of a three-story apartment building to be constructed principally of concrete block walls, precast concrete floors, gypsum drywall, glass and related building materials. The first floor has ten (10) parking spaces and ten (10) individual storage rooms. The second and third floors have five (5) apartments per floor.

The apartments are numbered 201 through 205 on the second floor with apartment number 201 being on the easterly (Hanapepe) side of the building and apartment 205 being on the westerly (Kekaha) side of the building. The apartments on the third floor are numbered 306 through 310 with apartment number 306 being on the westerly (Kekaha) side of the building and apartment number 310 being on the easterly side (Hanapepe) of the building. The parking stalls are numbered 1 through 10 inclusive on the first floor and 11 through 22 inclusive in the uncovered parking lots adjoining the building on the northerly (mauka) side.

Each apartment contains a living-dining room, two bedrooms, kitchen, one bathroom and a lanai and are identical in room size, floor plan and layout except for "reverse" plans.

Each apartment has a total floor area of 927 square feet and a lanai of 202 square feet. The gross floor area is measured centerline to centerline on the horizontal and outside to outside in a transverse direction.

Each apartment has immediate access to an exterior walkway which leads to two stairways which lead to the ground.

The respective apartments shall not be deemed to include the undecorated or unfinished perimeter walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility lines running through such apartments which are utilized for or serve more than one apartment, the same being deemed common elements. Each apartment shall include the adjacent lanai delineated on the Condominium Map. Each apartment shall be deemed to include all the walls or partitions which are not load bearing within its perimeter walls, and inner decorated or finished surfaces of all walls, floors, and ceilings, doors and door frames, windows and window frames, the lanai, air space and all fixtures installed therein.

COMMON ELEMENTS: The Declaration of Horizontal Property Regimes reflect that the common elements shall include:

1. The land in fee;
2. The foundations, columns, girders, beams, supports, main walls, roofs, walkways, stairways;
3. The shake roof and two (2) guest parking stalls, nos. 21 and 22.
4. The driveway, walkways, refuse collection area, plantings;
5. The central and appurtenant installations such as ducts, electrical equipment, wiring and conduits for utility services, including power, light, gas, hot and cold water, telephones, television antenna and wiring, sewer lines;
6. The recreational area and the swimming pool;
7. All of the parts of the project existing for the common use necessary for the existence, maintenance and safety of the project.

LIMITED COMMON ELEMENTS: Each of the 10 apartments shall have the exclusive right to use two parking stalls as set forth in Exhibit "A" attached hereto and as shown on the Condominium Map. There are two stalls designated as guest parking. Notwithstanding any provision in the Declaration, the apartment owners with the consent of the Mortgagee, if any, shall have the right to change the designation of parking stalls which are appurtenant to the respective apartments by amendment to the Declaration and the respective apartment leases or deeds involved. The amendment shall be effective upon recording or filing of the same for record with the Bureau of Conveyances.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided ten percent (10%) interest in the common elements for all purposes, including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The uses to which the apartments and building are to be put are as follows:

(a) The apartments hereinabove described shall at all times be used for residential apartment uses for the owner, his family, tenants and social guests and such other uses as are permitted by the By-Laws and House Rules, and may be leased or rented for any period or periods; provided, however, that during the time that the Developer is the owner of any apartment, Developer shall have the right to retain any apartment in the project and to lease or rent to any third party for the occupancy of any apartment that it retains.

(b) The owner of an apartment shall not use the same for any purpose which will injure the reputation of the project. Such owner shall not suffer anything to be done or kept in said apartment or elsewhere which will jeopardize the soundness of the building; or which will interfere with or unreasonably disturb the rights of other owners, or which will increase the rate of fire insurance on the building or the contents thereof or which will reduce the value of the building.

(c) The owner of an apartment shall not, without the prior written consent of the Board, make any structural alterations in or additions to the apartment or make any alterations in or additions to the exterior of an apartment (including awnings, jalousies or screens), or to any other portion or portions of the common elements unless otherwise provided in the By-Laws.

The House Rules provide, in part: (1) No livestock, poultry or other animals whatsoever shall be allowed or kept in any part of the project; (2) No waterbeds shall be utilized within the apartments by any occupant, and (3) Occupancy is limited to not more than two (2) persons per bedroom contained in each apartment, except that this occupancy may be exceeded by members of the immediate family of the owner, tenant or lessee.

OWNERSHIP OF TITLE: A Preliminary Report dated February 28, 1979 issued by Security Title Corporation states that the owner of said property is RT ENTERPRISES, INC., the developer.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report by Security Title Corporation discloses the following encumbrances:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Fourth Division;
2. As to that portion of the land bordering the ocean, the effect of Sections 205-31 to 205-37, inclusive, Hawaii Revised Statutes, is now or hereafter amended pertaining to shoreline setback.
3. Any adverse claim of State of Hawaii based upon the contention that some portion of the land hereinafter described lies seaward of the line of vegetation, pursuant to the ruling of County v. Sotomura, (1973) 55 H. 176, 517 D. 57.
4. Mortgage dated January 1, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Book 13492, Page 73 made by RT ENTERPRISES, INC., a Hawaii corporation, in favor of Thomas James Myers, Eugene Alfred Turchetta, Nelson Yukio Yamasaki and Daniel Hideyuki Nagata.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated March 9, 1979 identifies Security Title 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, as amended.

Among other provisions, the executed Escrow Agreement promises that upon occurrence of any event entitling either party to cancel the Sales Contract and the election of such party to so cancel, Seller shall entrust Escrow in writing to refund to the purchasers named in such Sales Contract such purchaser's funds then held hereunder by escrow and upon receipt of such instructions, Escrow shall refund such purchaser's funds pursuant to and in accordance with such instructions.

The Escrow Agreement also provides that upon Seller's request, Escrow shall deposit any or all funds received and held in Escrow in interest bearing accounts or time certificates and any and all interest earned on such funds shall accrue to the credit of Seller.

The specimen Deposit, Receipt and Sales Contract provides in part:

1. In the event less than eight (8) apartments are sold prior to December 31, 1979, that Seller at its option may cancel the sales contract and entrust Escrow to refund all of the purchaser's funds, paid, without interest and Seller shall be relieved and released of all further liability thereunder.
2. In the event development and construction of the project is delayed due to governmental restrictions or regulations enacted after the date of the sales contract, or occurrence of a contingency, the non-occurrence of which was a basic assumption on which the Sales Contract was made, and Seller determines that increases in development and construction costs because of such delay require increases in apartment sales price (over and above five percent (5%) of the sales price) to maintain financial feasibility of the project, then and in any such event Seller may at its option, terminate the Sales Contract and cause Escrow to refund to purchaser all monies paid, without interest, and Seller shall be released from all liability thereunder, provided, however, that Seller shall offer to purchaser the first right to execute a new Sales Contract at the increased apartment unit price.
3. If construction of the project in which the apartment is located is not commenced within one (1) year from the date of the Sales Contract, the Sales Contract shall terminate automatically without notification by either party and all payments previously made by purchaser shall be returned to purchaser without interest, less escrow charges.
4. Purchaser agrees that all of the rights of the purchaser under the Sales Contract are and shall be subject and subordinate to the lien of any mortgage securing the repayment of any interim loan for costs of construction and other costs during construction, which may become a lien and purchaser irrevocably appoints Seller the attorney in fact of purchaser to execute and deliver on behalf of purchaser any instrument of subordination which the interim lender or his successors in interest may require.

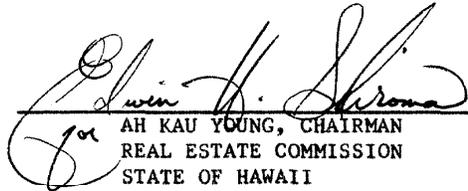
5. Seller is authorized to set up the initial maintenance fees for the project. As to any apartment which is not completed or unsold, the purchaser understands and agrees that the Seller is not required to pay any maintenance fees for said apartments, however, Seller shall be required to pay for and make up any deficiency necessary to maintain the project but not in excess of the maintenance fees attributable to the apartments not completed, not sold or unoccupied. Seller will be required to pay for the full maintenance fees only for those apartments which are not sold or are unoccupied commencing eight (8) months after all of the apartments are completed.

MANAGEMENT AND OPERATIONS: The initial management agent is Clint Childs, Inc., Suite 206 Lihue Shopping Center, Lihue, Kauai, Hawaii.

The purchaser or prospective purchaser shall be cognizant of the fact that this public report represents information disclosed by the Developer in the required Notice of Intention submitted April 3, 1979 and information subsequently filed as of May 8, 1979.

This FINAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 1115 filed with the Commission on April 3, 1979.

This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock must be yellow in color.


AH KAU YOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

REGISTRATION NO. 1115

May 11, 1979

ASSIGNMENT OF PARKING STALLS

<u>Apartment Number</u>	<u>Parking Stall Numbers</u>
201	1 & 20
202	2 & 19
203	5 & 16
204	8 & 15
205	10 & 11
306	9 & 12
307	7 & 14
308	6 & 13
309	4 & 18
310	3 & 17
Guest Parking	21 & 22

EXHIBIT "A"