

# 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

KIHEI RESORT  
Kaonoulu (Kihei), Maui  
State of Hawaii

REGISTRATION NO. 1156

### **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 : July 23, 1980  
Expires: August 23, 1981

#### SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that the 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 JULY 26, 1979, AND INFORMATION SUBSEQUENTLY FILED AS OF JULY 17, 1980. DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report of August 20, 1979, the Developer reports that changes have been made in the Project. This Final

Public Report (white paper stock) amends the Preliminary Public Report (yellow paper stock) becoming a part of the KIHEI RESORT registration.

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 of Kihei Resort, dated June 2, 1980, with By-Laws of the Association of Apartment Owners annexed thereto, have been recorded in the Bureau of Conveyances of the State of Hawaii in Book 14799, Page 1. The approved floor plans have also been filed in the Bureau of Conveyances of the State of Hawaii and designated as Condominium File Plan No. 737.

4. Advertising and promotional matter have been submitted 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 of the KIHEI RESORT 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) and Disclosure Abstract. Securing a signed copy of the Receipt therefor from each purchaser and prospective purchaser is also the responsibility of the Developer.

7. This Final Public Report automatically expires thirteen (13) months after the date of issuance, July 23, 1980, 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 August 20, 1979 in the topical headings hereinafter set forth have been amended. Information disclosed in the remaining topical headings have not been disturbed.

DEVELOPER:

The correct phone number of the developer GIBALTAR MAUI PARTNERS is now 521-8081.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE:

In addition to the information under this topical heading in the Preliminary Public Report, the Declaration further states that no apartment owner shall offer, sell or transfer any time-sharing interest in any apartment in the project. The term "time-sharing interest" shall be deemed

to include any interest in an apartment established on a fee, leasehold, right-to-use, license, partnership, association, membership in club, reservation or any other basis for use during any specified limited time period (periodically recurring or in the form of a floating period with a right-to-use by notification) set forth by contract or agreement.

LOCATION:

The Developer has advised the Commission that the metes and bounds description of the land comprising the Project has been revised based on a 1980 survey by Warren S. Unemori to reflect a revised land area of 113,351 square feet.

TAX KEY:

The Developer has also advised the Commission that an application has been filed with the County of Maui for consolidating the two parcels (Lots 21-A and 22-A) into one parcel. The Developer has therefore amended the Declaration of Horizontal Property Regime to reserve the right to amend the property description of the land upon the County of Maui's approval of the Developer's consolidation application and the designation of a new tax key number.

ENCUMBRANCES:

A Preliminary Title Report dated June 19, 1980, issued by Title Guaranty of Hawaii, Incorporated, states that the title to the property is subject to the following encumbrances:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Mortgage dated April 21, 1980, in favor of Honolulu Federal Savings and Loan Association, a federal savings and loan association, recorded in said Bureau in Book 14688, Page 534. (The Mortgage will be released prior to the issuance of any apartment deeds.)
3. Agreement dated May 23, 1979, recorded in Book 13745, Page 705, by and between the County of Maui, Department of Water Supply, and Gibraltar Maui Partners.
4. For any taxes that are due and owing, reference is made to the Office of the Tax Assessor, Second Division.
5. The restrictions, condition, reservations, and other provisions set forth in Declaration of Horizontal Property Regime dated June 2, 1980 recorded in the Office of the Bureau of Conveyances in Book 14799 Page 1 and the By-laws attached thereto. (Project covered by Condominium Map No. 737.)

PURCHASE MONEY HANDLING:

1. The Escrow Agreement between the Developer and First Hawaiian Bank, as "Escrow Agent", has been amended. A copy of such Amendment, dated February 20, 1980, has been furnished to the Real Estate Commission. The Amendment amends the Escrow Agreement by: (a) deleting from paragraph 3 the following sentence: "For purposes of this Agreement the term construction costs shall mean the direct construction costs for the Project equal to the valuation of the work completed by the contractor at the time of such payment as certified by a registered architect or professional engineer.", and (b) amending paragraph 7 to provide that the Escrow Agent's cancellation fee shall be paid by the Developer, and not deducted from the Buyer's refund, if any of the events described in subparagraphs 7(b), 7(c) or 7(d) of the Escrow Agreement should occur. The amendment to paragraph 7 described above is effective only with respect to cancellations occurring after February 20, 1980.

2. The Sales Contract provides, among other things, that the Developer's mortgage loan (interim, renewals and extensions) for the construction of the Project shall be and remain at all times a superior lien on the Project. The Developer has borrowed the sum of \$5,500,000.00 (the "Loan") from Honolulu Federal Savings and Loan Association for the purpose of constructing the Project. The Loan has a term of one and one-half (1-1/2) years, bears interest at the annual rate of two percent (2%) over Bank of Hawaii's prime interest rate during the term of the Loan (but in no event shall such interest rate be less than 10.75 percent per annum) and is secured by a Real Property Mortgage and Financing Statement (the "Mortgage"). In the event of a default under the Loan, the Loan shall bear interest at the rate equal to five (5) percentage points higher than the prime interest rate in effect from and after the date of default (but in no event less than 10.75 percent per annum). By executing the receipt for this Final Public Report, the Buyer expressly waives and subordinates all of the Buyer's right, title and interest under the Sales Contract to the lien of the Mortgage and the liens and security interests of any other mortgage or other security instruments made by the Developer in favor of Honolulu Federal Savings and Loan Association or any other lending institution for the purpose of constructing the Project. The Mortgage and all such other liens and security interests will be released prior to the issuance of any apartment deeds.

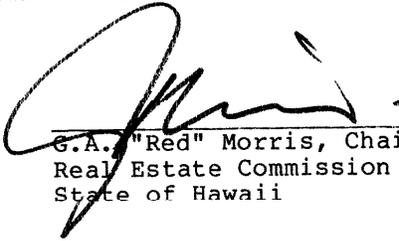
STATUS OF PROJECT:

Construction of the Project has commenced and the Developer currently estimates that construction of the Project will be completed in May, 1981. A construction contract for the Project was executed on October 29, 1979, with J S & W Construction Co., Inc., a Hawaii corporation, as general contractor.

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The purchaser and prospective purchasers should be cognizant of the fact that this Public Report represents information

disclosed by the Developer in the required Notice of Intention submitted July 26, 1979 and information subsequently filed as of July 17, 1980.

This FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1156 filed with the Commission on July 26, 1979. This report, when reproduced, shall be a true copy of the Commission's Public Report. Paper stock used in making facsimiles must be white.



G.A. "Red" Morris, Chairman  
Real Estate Commission  
State of Hawaii

Distribution:

Department of Taxation  
Bureau of Conveyances  
Planning Department - County of Maui  
Escrow Agent  
Federal Housing Administration

Registration No. 1156

July 23, 1980