

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

KEAUHOU GARDENS I
Alii Drive
Keauhou-Kona, Hawaii

REGISTRATION NO. 1157

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: January 15, 1981

Expires: February 15, 1982

SPECIAL ATTENTION

A comprehensive reading of this Report by a prospective purchaser is urged in order that the personal requirements and expectations to be derived from the property can be ascertained. The attention of the prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED AUGUST 2, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF JANUARY 12, 1981. THE DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Preliminary Public Report dated September 21, 1979, the Developer has forwarded additional information reflecting changes that have been made in the documents for the Project.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the Issuance of this Final Public Report.
3. The Developer advises that the Declaration of Horizontal Property Regime and attached Bylaws have been recorded in the Bureau of Conveyances of the State of Hawaii in Book 15165, Page 63. The Condominium Map has been filed in the Bureau of Conveyances as Condominium File Plan No. 773.
4. Advertising and promotional materials have not been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the Rules and Regulations of the Commission which relate to Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after date of issuance, January 15, 1981, unless a Supplementary Public Report issues or the Commission upon review of the registration issues an order extending the effective period of this Report.
7. This Final Public Report is part of the registration of KEAUHOU GARDENS I. The Developer has the responsibility of placing a true copy of this Final Public Report (white paper stock) and the Developer's revised Disclosure Abstract in the hands of all purchasers along with a copy of the Preliminary Public Report (yellow paper stock) and a signed receipt therefor.

The information in the Preliminary Public Report issued September 21, 1979, under the topical headings ATTORNEY REPRESENTING DEVELOPER, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, INTEREST TO BE CONVEYED TO PURCHASER, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, DEVELOPER'S OPTION TO CONSTRUCT SECOND INCREMENT, and STATUS OF PROJECT has been altered as indicated below.

ATTORNEY REPRESENTING DEVELOPER. The information under this topical heading has been changed to reflect that the attorney for the Developer is now: HODDICK, REINWALD, O'CONNOR & MARRACK, Attention: Howard K. Hoddick, Suite 2400, PRI TOWER, Grosvenor Center, 733 Bishop Street, Honolulu, Hawaii 96813. Telephone No. (808) 524-8350.

COMMON ELEMENTS: Subsection (e) has been revised as follows: "All uncovered parking areas, except as provided under LIMITED COMMON ELEMENTS below, shall be used for guest parking;". Additionally, the following has been added as a new subsection (k): "All perimeter walls, floors and ceilings and their

unfinished and undecorated interior surfaces, roofs, roof framing members, wiring, conduits, pipes, plumbing and electrical and plumbing fixtures of the enclosed parking areas described in Section 6 of the Declaration."

LIMITED COMMON ELEMENTS: The information under this topical heading remains the same with the addition of the following: (i) the four (4) open parking stalls adjacent to Building 14 and marked "P" on the Condominium Map shall be a limited common element appurtenant to the Building 14 Apartment and (ii) each landscaped courtyard adjacent to an apartment building shall be a limited common element of the Project appurtenant to the apartments in such building. All costs and expenses incurred in connection with each such courtyard shall be borne by the apartments to which such courtyard is appurtenant, in the proportion that the common interest appurtenant to such apartment bears to the aggregate common interests appurtenant to all of the apartments to which such limited common element is appurtenant.

INTEREST TO BE CONVEYED TO PURCHASER: The following is added to the information contained in the Preliminary Public Report: Prospective purchasers are advised that the Apartment Deed and Ground Lease provides that in addition to the scheduled and renegotiated rent increases which will occur during the term of the Ground Lease, the monthly rent payable thereunder may also increase if the apartment is later sold or transferred by the apartment owner at a profit. Such increase shall not take effect, however, until January 1, 1985.

Note: Purchasers are further advised that although Building 14 Apartment contains an area of approximately 1300 square feet, it has been allocated a .069% interest in all common elements of the project and the same proportionate share in all profits and expenses of the project, including voting. The Commission has been advised by developer's attorney that allocation of the percentage interest was based on an appraisal of the various type units.

OWNERSHIP OF TITLE: A Preliminary Report dated November 26, 1980, issued by Title Guaranty of Hawaii, Inc. states that the fee simple title to the Property submitted to the Horizontal Property Regime is vested in the Developer by Deed dated September 23, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Book 15035, Page 359.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Report described above shows title to the Property to be subject to the following encumbrances:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor of the Third Division, County of Hawaii, State of Hawaii.

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

3. Reservations, covenants and conditions contained in the Deed dated October 2, 1969, recorded in the Bureau of Conveyances in Book 6755, Page 49.

4. Real Property Mortgage and Financing Statement dated October 1, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Book 15035, Page 365, made by di Tullio-Hawaiian Venture 1, a Hawaii general partnership, in favor of Honolulu Federal Savings and Loan Association, a federal savings and loan association.

5. The covenants, agreements, obligations, conditions and other provisions as set forth in that certain Declaration of Horizontal Property Regime, dated October 31, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Book 15165, Page 63, and the Bylaws attached thereto, to which reference is hereby made. Condominium Map No. 773 filed in the Bureau of Conveyances of the State of Hawaii.

6. A 22-foot wide easement for access purposes over and across Lot 4-A.

The Developer has advised the Commission that the lien of the Real Property Mortgage and the Financing Statement, identified in Item No. 4 above, will be released with respect to a particular apartment prior to the conveyance of such apartment.

DEVELOPER'S OPTION TO CONSTRUCT SECOND INCREMENT: Paragraph (a) under this topical heading in the Preliminary Public Report has been amended in its entirety as follows:

"Developer has the right, but not the obligation, at its option, up to but not later than December 31, 1990, to require alteration of the Project by creating not more than two hundred and forty (240) residential apartments (one of which may be used in the same manner as Building 14 Apartment) totaling not more than 480,000 square feet of interior area, with appurtenant recreational facilities and other common elements (hereinafter called the "Second Increment") within the area delineated on the Condominium Map as the "Future Development Area" and to thereafter merge said Second Increment with the then existing apartment and common elements of the Project (hereinafter called the "First Increment"). The buildings in the Second Increment shall number not more than 30, shall contain no more than 24 apartments per building, shall not be more than 3 stories high and shall be architecturally compatible with the First Increment."

Additionally, subsections (9) and (10) has been added to the information under this heading as follows:

(9) Prior to the construction of the Second Increment, 75% of all Mortgagees holding mortgages in the First Increment, shall give their consent to said commencement of construction upon reasonable assurances by Developer that adequate financing for the completion of construction of the Second Increment has been obtained and that the general contractor has obtained a 100% performance and labor and materialmen's payment bond. If said Mortgagees' written consent is not received by Developer on or before the expiration of thirty (30) days after said Mortgagees were sent written notice of consent, said Mortgagees shall be deemed to have automatically given their

consent to the commencement of construction of the Second Increment without necessity of any further written instrument evidencing consent.

(10) For and during the time from the visible commencement of construction of the Second Increment up through the expiration of the mechanics' and materialmen's lien period, all structures, landscaping and other improvements constructed in the Second Increment except for the apartments themselves shall constitute limited common elements appurtenant only to the apartments in the Second Increment. After the expiration of said lien period said structures, landscaping and other improvements shall be defined as common elements and limited common elements as may be determined by Developer by amendment to the Declaration.

PURCHASE MONEY HANDLING: The following information is added under this topical heading of the Preliminary Public Report:

Purchaser's Right of Specific Performance. Each purchaser is notified that the Developer has waived and does hereby waive any limitation on such purchaser's right of specific performance which may be imposed by his Sales Contract. All other contingencies to which the Sales Contract may be subject remain unchanged.

Subordination Agreement; Loan to Developer; Subordination to Interim Lender. By receipting for a copy of this Final Public Report, a purchaser acknowledges that the Developer will borrow money from an interim lender ("Interim Lender") for the development of the Project and that the Interim Lender will have a lien and security interest under various security instruments securing the loan (the "Mortgage Loan"). The Mortgage Loan (i) shall not exceed the aggregate principal sum of \$28,000,000.00; (ii) shall not have an interest rate of more than four percentage points over the prime rate of Bank of Hawaii fluctuating with prime; provided that the interest rate shall in no event be less than 10.75% per annum; and provided further that upon default by Developer under the Mortgage Loan, the interest rate may increase to four percentage points over the interest rate in effect during the continuance of such default, and (iii) shall not be for a term greater than twenty-four (24) months. By receipting for a copy of this Final Public Report, a purchaser acknowledges and agrees that the Mortgage Loan and any renewals and extensions thereof shall be and remain at all times a lien or charge on the Project prior and superior to any and all liens or charges on the Project arising from such purchaser's Sales Contract or any prior reservation agreement. By receipting for a copy of this Final Public Report, a purchaser intentionally waives, relinquishes and subordinates the priority or superiority of any interest under such Sales Contract in favor of the liens, security interests and charges of the Mortgage Loan upon the Project.

Closing Date. Purchasers are advised that the closing date, as described in the Sales Contract, will be the date the Certificate of Occupancy for the purchaser's apartment has been issued, and that purchaser's obligations

for taxes, ground rents and other payments will commence as of such closing date.

STATUS OF PROJECT: Construction commenced on October 24, 1980. The Developer estimates that construction will be completed by December 1, 1981.

Final plans for the Project have been approved by the appropriate county officials who have jurisdiction over the Project. Building permits have been obtained and construction financing has been arranged with Honolulu Federal Savings and Loan Association. The Developer has obtained its planned development and special management area use permits, and has obtained subdivision approval for the Project. The Developer has executed Construction Contracts with H.M. Construction Company, Inc., dated September 30, 1980, and with Seakon Corporation dated September 29, 1980.

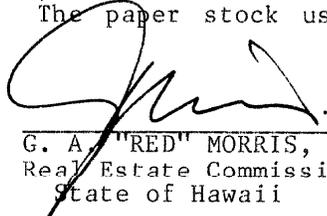
The Developer advises that the units will not contain a trash compactor or a built-in vacuum cleaner system as was stated in the sales brochure.

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A purchaser should be cognizant of the fact that this Final Public Report represents information disclosed by the Developer in the required Notice of intention submitted on August 2, 1979, and additional information subsequently filed as of January 12, 1981.

THIS FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1157, filed with the Commission on August 2, 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.


G. A. "RED" MORRIS, CHAIRMAN
Real Estate Commission
State of Hawaii

Distribution:

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

Registration No. 1157

January 15, 1981.