

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

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 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: September 21, 1979

Expires: October 21, 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 AUGUST 2, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED WITH THE COMMISSION AS OF SEPTEMBER 20, 1979. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT SET FORTH IN CHAPTER 514A HAWAII REVISED STATUTES.

1. KEAUHOU GARDENS I is a proposed leasehold condominium project consisting of one hundred twelve (112) residential apartments located in twelve (12) separate residential buildings, one (1) manager's office and apartment located in one separate building, and one (1) building for storage of equipment and supplies, all in accordance with plans filed with the Real Estate Commission. The Project will contain fifty-nine (59) detached two-car garages, providing for one hundred

eighteen (118) assigned parking spaces. There will be one stall or one half the space within each garage appurtenant to each one and two bedroom residential apartment, and two stalls or all the space within each garage appurtenant to each three bedroom residential apartment. There will also be not less than thirty (30) uncovered unassigned parking stalls.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Preliminary Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime, the By-Laws and the Condominium Map will be filed in the Bureau of Conveyances of the State of Hawaii immediately prior to the application for a Final Public Report.
4. Advertising and promotional materials have not been submitted to the Commission pursuant to its rules and regulations.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, September 21, 1979, unless a Final or a Supplementary Public Report issues, or the Commission, upon review of registration, issues an order extending the effective date of this report.
7. This Preliminary Public Report is made a part of the registration of KEAHOLO GARDENS I. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) and of the Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed copy of a receipt therefor from each Purchaser.

NAME OF PROJECT: KEAHOLO GARDENS I

LOCATION: The project is located on Alii Drive in Keaohou-Kona, Island and County of Hawaii, and consists of approximately 11.624 acres of land.

TAX KEY: 7-8-10:52, 3rd Div.

ZONING: RM 2.00 (Multi family residential)

DEVELOPER: DI TULLIO - HAWAIIAN VENTURE I, a registered Hawaii Partnership, whose principal place of business and post office address is Suite 320, Kawaiahao Plaza, 567 South King Street, Honolulu, Hawaii 96813; Phone 531-3743. The General Partners

are Haena Development Corp., a Hawaii corporation, Suite 320, Kawaiahao Plaza, 567 South King Street, Honolulu, Hawaii 96813, and West Hawaiian Ventures, a California general partnership, 3837 Birch Street, Newport Beach, California 92660. The partners of West Hawaiian Ventures are Kailua Development Corporation, a California corporation, and Keauhou Development Corporation, a California corporation, both of 3837 Birch Street, Newport Beach, California 92660.

ATTORNEY REPRESENTING DEVELOPER: Clifford H. F. Lum, 297 Waiuanu Avenue, P.O. Box 1495, Hilo, Hawaii 96720, telephone (808) 961-6076.

DESCRIPTION OF PROJECT: There are fourteen (14) buildings in the Project, consisting of twelve (12) buildings (Buildings Nos. 1 through 12) containing residential apartments, one building (Building No. 13) for storage of equipment and supplies used by Project personnel in the maintenance of the common elements, and one building (Building No. 14) for use as a management and sales office and residence for a Project Manager. The buildings will be principally of wood frame construction with stucco exteriors, tile roofs and either concrete slab foundations or partially concrete slab and partially post and pier foundations depending on grade, as shown more fully on the proposed Condominium Map.

Building Number 1 is a three-story building containing three Type A apartments, six Type B apartments, and three Type C apartments.

Building Number 2 is a two-story building containing two Type A apartments, two Type B apartments, two Type C apartments, and two Type D apartments.

Building Number 3 is a two-story building containing two Type A apartments, two Type B apartments, two Type C apartments, and two Type D apartments.

Building Number 4 is a two story building containing two Type E apartments.

Building Number 5 is a two-story building containing four Type B apartments and four Type C apartments.

Building Number 6 is a three-story building containing two Type A apartments, one Type A-1 apartment, four Type B apartments, two Type B-1 apartments, two Type C apartments, and one Type C-1 apartment.

Building Number 7 is a two-story building containing eight Type D apartments and two Type E apartments.

Building Number 8 is a two-story building containing two Type B apartments, four Type D apartments, and two Type E apartments.

Building Number 9 is a two-story building containing two Type A apartments, two Type B apartments, two Type C apartments, and two Type D apartments.

Building Number 10 is a three-story building containing two Type A apartments, one Type A-1 apartment, two Type B apartments, one Type B-1 apartment, two Type C apartments, one Type C-1 apartment, two Type D apartments, and one Type D-1 apartment.

Building Number 11 is a three-story building containing two Type A apartments, one Type A-1 apartment, four Type B apartments, two Type B-1 apartments, two Type C apartments, and one Type C-1 apartment.

Building Number 12 is a three-story building containing two Type A apartments, one Type A-1 apartment, four Type B apartments, two Type B-1 apartments, two Type C apartments, and one Type C-1 apartment.

Building Number 13 is a single-story building containing 1056 square feet of interior floor area and consisting of various storage and work areas for the use of janitorial, landscaping and other Project personnel involved in the maintenance of the common elements and the provision of limited janitorial and housekeeping services to residents of the Project. Building Number 13 is not a separate apartment within the meaning of the Act, but is a common element of the Project.

Building Number 14 is a single-story building containing 1300 square feet of interior floor area and consisting of a reception area, two office spaces, a kitchen, a living/dining room, a bedroom, and one and a half bathrooms for use as a management and sales office and resident manager's apartment. Building Number 14 is a separate apartment within the meaning of the Act.

The following are the types of residential apartments within the Project:

Type A apartments are one-story, one-bedroom end units having an area of approximately 1,101 square feet and a lanai of approximately 352 square feet. Type A apartments also have an appurtenant limited common element consisting of approximately 252 square feet of enclosed garage (being one-half of a separate two-car garage building shared with another apartment). Type A apartments contain a living room and dining area, a kitchen, one bedroom and one bathroom. There are 17 Type A apartments in the Project.

Type A-1 apartments are one-story, one-bedroom end units identical in area, floor plan and appurtenant limited common elements to Type A apartments but which are located on the ground floor of certain of the three story buildings of the Project (Buildings Nos. 6, 10, 11, and 12) and which have a slightly more constricted view plane than Type A apartments. There are four Type A-1 apartments in the Project.

Type B apartments are one-story, one-bedroom interior units identical in area, floor plan and appurtenant limited common elements to Type A apartments, but which have fewer windows than Type A apartments by virtue of their being adjacent on both sides to other apartments. There are 32 Type B apartments in the Project.

Type B-1 apartments are one-story, one-bedroom interior units identical in area, floor plan and appurtenant limited common elements to Type B apartments but which are located on the ground floor of certain of the three-story buildings of the Project (Buildings Nos. 6, 10, 11 and 12) and which have a slightly more constricted view plane than Type B apartments. There are seven Type B-1 apartments in the Project.

Type C apartments are one-story, two-bedroom end units having an area of approximately 1,527 square feet and a lanai of approximately 387 square feet. Type C apartments also have an appurtenant limited common element consisting of approximately 252 square feet of enclosed garage (being one-half of a separate two-car garage building shared with another apartment). Type C apartments contain a living room, a dining room, a kitchen, two bedrooms, and two bathrooms. There are 21 Type C apartments in the project.

Type C-1 apartments are one-story, two-bedroom end units identical in area, floor plan and appurtenant limited common elements to Type C apartments but which are located on the ground floor of certain of the three-story buildings of the Project (Buildings Nos. 6, 10, 11 and 12) and which have a slightly more constricted view plane than Type C apartments. There are four Type C-1 apartments in the Project.

Type D apartments are one-story, two-bedroom interior units identical in area, floor plan and appurtenant limited common elements to Type C apartments, but which have fewer windows than Type C apartments by virtue of their being adjacent on both sides to other apartments. There are 20 Type D apartments in the Project.

There is only one Type D-1 apartment in the Project. It is a one-story, two-bedroom interior unit identical in area, floor plan and appurtenant limited common elements to a Type D apartment but is located on the ground floor of one of the three-story buildings of the Project (Building No. 10) and has a slightly more constricted view plane than a Type D apartment.

Type E apartments are two-story, three-bedroom end units having an area of approximately 1,953 square feet and two lanais (one on each floor) containing a total of approximately 423 square feet. Type E apartments also have an appurtenant limited common element consisting of a separate enclosed two-car garage building having an area of approximately 504 square feet. Type E apartments contain a living room and dining area, a kitchen, three bedrooms and three bathrooms. There are six Type E apartments in the Project.

The building number, apartment number, apartment type and percentage of common interest appurtenant to each apartment is listed below. The first digit of each apartment number indicates the floor of the building on which it is located.

<u>Building Number</u>	<u>Apartment Number</u>	<u>Apartment Type</u>	<u>Apartment Interest</u>
1	101	C	1.084
	201	C	1.084
	301	C	1.084
	102	B	.724
	202	B	.724
	302	B	.724
	103	B	.724
	203	B	.724
	303	B	.724
	104	A	.784
	204	A	.784
2	304	A	.784
	101	C	1.084
	201	C	1.084
	102	B	.724
	202	B	.724
	103	D	1.003
	203	D	1.003
	104	A	.784
204	A	.784	
3	101	C	1.084
	201	C	1.084
	102	B	.724
	202	B	.724
	103	D	1.003
	203	D	1.003
	104	A	.784
	204	A	.784
4	101	E	1.376
	102	E	1.376
5	101	C	1.084
	201	C	1.084
	102	B	.724
	202	B	.724
	103	B	.724
	203	B	.724
	104	C	1.084
	204	C	1.084
6	101	C-1	.990
	201	C	1.084
	301	C	1.084
	102	B-1	.660
	202	B	.724
	302	B	.724
	103	B-1	.660
	203	B	.724
	303	B	.724
	104	A-1	.714
	204	A	.784
	304	A	.784

7	101	E	1.376
	102	D	1.003
	202	D	1.003
	103	D	1.003
	203	D	1.003
	104	D	1.003
	204	D	1.003
	105	D	1.003
	205	D	1.003
	106	E	1.376
8	101	E	1.376
	102	D	1.003
	202	D	1.003
	103	D	1.003
	203	D	1.003
	104	B	.724
	204	B	.724
	105	E	1.376
9	101	C	1.084
	201	C	1.084
	102	B	.724
	202	B	.724
	103	D	1.003
	203	D	1.003
	104	A	.784
	204	A	.784
10	101	C-1	.990
	201	C	1.084
	301	C	1.084
	102	B-1	.660
	202	B	.724
	302	B	.724
	103	D-1	.919
	203	D	1.003
	303	D	1.003
	104	A-1	.714
	204	A	.784
	304	A	.784
	11	101	A-1
201		A	.784
301		A	.784
102		B-1	.660
202		B	.724
302		B	.724
103		B-1	.660
203		B	.724
303		B	.724
104		C-1	.990
204		C	1.084
304		C	1.084

12	101	C-1	.990
	201	C	1.084
	301	C	1.084
	102	B-1	.660
	202	B	.724
	302	B	.724
	103	B-1	.660
	203	B	.724
	303	B	.724
	104	A-1	.714
	204	A	.784
	304	A	.784

Manager's Apartment .069

100.000%

Each residential apartment will have drapes and will be carpeted throughout except for the kitchens and bathrooms which will be tiled. Each apartment will have a counter-top range, two built-in ovens, a two-door refrigerator-freezer, a garbage disposal, dishwasher, water heater, washer and dryer.

The respective apartments shall not be deemed to include the undecorated or unfinished 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 any adjacent lanai shown on the Condominium Map and serving only such apartment. Each apartment shall be deemed to 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 building fixtures.

Even though the limits of each apartment are the interior surfaces of perimeter walls, the floor areas given above for each type of apartment were measured from the center line of party walls and the exterior surface of all other perimeter walls, and no reduction has been made for other interior walls within the perimeter of the apartment.

Each apartment has access to the common elements of Project by means of various exterior stairways and walkways. All apartments also have a landscaped courtyard which is shared in common with several other apartments near or adjoining their entryways, as shown more fully on the proposed Condominium Map. There are also one or more free-standing two-car garages located next to or in front of each apartment building. The Project also contains private roads and driveways, uncovered parking areas, a security guard's station, a swimming pool and recreational area, and numerous landscaped areas.

COMMON ELEMENTS: The common elements will include all portions of the land and improvements other than the apartments, including apartment buildings, the land on which all apartment buildings are located, and all common elements mentioned in the Horizontal Property Act which are actually constructed on the land described herein, and specifically shall include, but shall not be limited to, the following:

(a) The land described in Exhibit A to the Declaration;

(b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, stairways, walkways, entrances to and exits from the buildings of the Project, and all other portions of the buildings of the Project which are not within the perimeter of an apartment;

(c) All recreational facilities and areas, grounds and landscaping, including the plants and planter boxes located on the lanais of each apartment;

(d) All roads within the Project;

(e) All uncovered parking areas, including not less than thirty (30) unassigned parking stalls;

(f) The building designated on the proposed Condominium Map as Building No. 13, for the use of janitorial and other Project personnel and for the storage of equipment and supplies;

(g) The security guard's station at the entrance to the Project;

(h) All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve the apartments with services such as power, light, gas, water, sewer, telephone and television signal distribution, if any;

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

(j) All other things constructed or placed on the land described herein and which are defined as common elements in the Act.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called "Limited Common Elements" are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows: One or more enclosed parking stalls is designated as a limited common element appurtenant to each residential apartment of the Project. The parking stall appurtenant to each one- or two-bedroom apartment (Apartment Types A, A-1, B, B-1, C, C-1, D and D-1) consists of one-half of the interior space within a separate enclosed two-car garage, bounded on two sides by the interior unfinished or undecorated surfaces of perimeter walls, on the third side by the exterior surface of the garage door, and on the fourth side by an imaginary vertical plane bisecting the garage building from front to rear, as shown on the proposed Condominium Map, and bounded top and bottom by the unfinished or undecorated surfaces of floor and ceiling. The parking area

appurtenant to each three-bedroom apartment (Apartment Type E) consists of the entire interior space within a separate enclosed two-car garage, bounded by the interior unfinished or undecorated surfaces of perimeter walls, floors, and ceilings and by the exterior surface of garage doors. The limited common element constituting the enclosed parking space appurtenant to each apartment does include their finished or decorated surfaces and the garage doors and door frames. Each garage or portion thereof bears the same number on the proposed Condominium Map, but preceded by the letter "G", as the apartment to which it is appurtenant in the building which it adjoins.

INTEREST TO BE CONVEYED TO PURCHASER: The Developer, by means of an Apartment Deed and Ground Lease, will convey to each purchaser the title to his apartment, together with the percentage of common interest appurtenant thereto, in all the common elements of the Project other than the land, and will simultaneously lease to the purchaser the same percentage of common interest in the land for a term of sixty (60) years. The percentage of common interest in the common elements and in the land has been allocated by the Developer principally on the basis of value, as determined from the initial selling prices of the apartments. The selling price of each apartment in turn was determined by the Developer on the basis of such factors as floor area and number of rooms, location within the Project, view planes, and the like. The Developer covenants and agrees that the undivided interest in common areas and facilities and the title to the respective apartments to be conveyed shall not be separated or separately conveyed and each said undivided interest shall be deemed to be conveyed or encumbered with its respective apartment even though the description in the instrument or conveyance may refer only to one of the interests. The voting rights of apartment owners, as well as their share of the common profits and expenses, shall be in proportion to their common interest.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the 112 residential apartments described above shall be occupied and used exclusively for residential purposes. The proposed Declaration also provides that the manager's apartment shall be occupied and used as an office for the Association, Board of Directors, Managing Agent and other persons having business concerning the Project, including persons involved in the initial sale or resales of residential apartments of the Project, and as a residence for a resident manager. The developer intends to retain ownership of the manager's apartment and lease it to the Association for its use at a nominal rent. The Developer has filed with the Real Estate Commission a proposed lease of the manager's apartment to the Association for a period of ten years at a rent of \$10.00 per month plus payment by the Association of all real property taxes assessed against the apartment plus the apartment's proportionate share of the common expenses of the Project. The proposed Declaration also provides that all uses of any apartment shall at all times comply with all zoning ordinances, rules and regulations. None of the provisions of the proposed Declaration shall be deemed to restrict the right of apartment owners to rent or lease their apartments in accordance with the terms of the Declaration, By-Laws, House Rules and Apartment Deed and Ground Lease.

NOTE: The proposed By-Laws and House Rules for the Project provide, among other things (1) that no pets, livestock or animals of any kind shall be allowed within the Project; (2) that guests who will be staying at an apartment for more than one week shall be registered with the Managing Agent; (3) that no hibachis, kerosene stoves, or other fire or open flame shall be permitted on any apartment lanai (barbecue facilities will be provided in the recreational areas of the Project); and (4) that waterbeds shall be allowed but only with permission of the Board of Directors and only if the apartment owner accepts responsibility for any damage, agrees to use a waterbed frame and liner, and obtains a waterbed insurance policy naming the Association as an insured and covering any and all structural or other damage from leaks, weight of the waterbed and other accidents involving the waterbed. Prospective purchasers are urged to study carefully these and all other provisions of the Declaration, By-Laws, House Rules, and Apartment Deed and Ground Lease.

OWNERSHIP OF TITLE: The Developer has no vested interest in the property but only an unexercised option to purchase the property at the time this Preliminary Public Report is issued.

A Preliminary Title Report dated July 11, 1979, issued by Title Guaranty of Hawaii, Inc., as submitted to the Commission, indicates that the fee simple title to the property to be committed to the regime is vested in Kamehameha Development Corporation, a Hawaii corporation, 700 Bishop Street, Suite 601, Honolulu, Hawaii 96813. An unrecorded Option Agreement letter dated December 12, 1978, reflects that the property, as so owned, is subject to an option to purchase in favor of Theodore R. di Tullio. Theodore R. di Tullio has assigned his rights under the Option to the Developer by an unrecorded Assignment of Option dated June 27, 1979. Copies of said agreements have been supplied to the Commission.

The term of the above Option Agreement extends to October 31, 1979, by which date the Developer must exercise the option as to the land to be developed as KEAHOLO GARDENS I (the first increment of the Project, which is the increment covered by this Preliminary Public Report). The Developer's Escrow Contract with Title Guaranty of Hawaii, Inc., dated July 23, 1979 does provide for the return of purchasers' funds in the event this option is not exercised.

NOTE: Prospective purchasers should also be aware that the land described in the Option Agreement letter is a single parcel consisting of 24.470 acres more or less, which includes both the land on which the Project as described herein is to be built and other land on which the Developer may construct a second increment to the Project. The Developer received its Planned Development and Special Management Area Use Permit on July 12, 1979, and subdivision approval on September 18, 1979, permitting the land to be divided into two lots, one of which will consist of approximately 11.624 acres and will be developed as described in this Preliminary Report as KEAHOLO GARDENS I. The remaining lot, consisting of 12.846 acres, will be developed as a second increment of the Project, if the Developer elects to proceed with further development. The Developer is under no obligation to acquire title to or develop the 12.846 acre parcel.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Report dated July 11, 1979, shows title to the property to be subject to the following encumbrances:

1. For any taxes that may be due and owing and a lien on the land, reference is made to the Office of the Tax Assessor of the Third Divison, County of Hawaii, Hawaii.

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

3. The reservations and conditions contained in the deed from the State of Hawaii to the Trustees of the Estate of Bernice Pauahi Bishop, Deceased, dated October 2, 1969, recorded in Liber 6755 at Page 49.

NOTE: The above unrecorded Option Agreement, dated December 12, 1978, and Assignment of Option dated June 27, 1979, are to be considered encumbrances against title to the property.

DEVELOPER'S OPTION TO CONSTRUCT SECOND INCREMENT

(a) Developer has reserved the right in the Declaration to require alteration of the Project at any time up to but not later than December 31, 1999, by creating not more than two hundred (200) residential apartments, with appurtenant recreational facilities and other common elements (hereinafter called the "Second Increment") within the area delineated on the proposed Condominium Map as the "Future Development Area" and to thereafter merge said Second Increment with the then existing apartments and common elements of the Project (hereinafter called the "First Increment").

(b) In furtherance of the rights reserved to Developer under the Declaration, Developer, its employees, agents, contractors and subcontractors, shall have the right at any time, and from time to time, to enter upon the Project and the common elements thereof and do all things reasonably necessary, desirable or useful for constructing and completing the Second Increment, connecting the same to the utility installations of the Project, and selling the apartments contained within said Second Increment, upon and subject to the following terms and conditions:

(1) The Second Increment shall be constructed in accordance with plans and specifications prepared by a licensed architect; provided, however, that such plans and specifications shall not require the alteration or demolition of any apartments of the First Increment.

(2) Developer shall have the right to add, delete, relocate, realign, reserve and grant all easements and rights-of-way over, under and on the common elements necessary or desirable to service the Second Increment, including but not limited to easements and rights-of-way for utilities, cesspools, sanitary and storm sewers, sewage treatment plants, cable television, refuse disposal, driveways, parking areas and roadways; provided, that such easements and rights-of-way shall not materially impair the use of any existing apartment or its appurtenant interest in the common elements.

(3) Developer shall have the right to remove, replace, add to, or otherwise alter portions of the common elements of the First Increment which adjoin or are located within 100 feet of the common boundary of the two increments in order to construct garage buildings which will be limited common elements appurtenant to apartments in the Second Increment, and recreational facilities which will be located primarily on the land of the Second Increment but which may encroach on the land underlying the First Increment. Developer shall have no obligation to construct any recreational facilities which are shown on the proposed Condominium Map as being principally located within the Second Increment, notwithstanding that some of such facilities are shown on said Map as being located in part on land within the First Increment.

(4) The construction of the Second Increment shall be performed in such manner as shall cause the least practicable annoyance to and interference with the then existing apartment owners. Each purchaser of an apartment in the First Increment, by his acceptance and occupancy of his apartment on closing, agrees (i) to remain outside of any fenced or posted construction areas or any other areas upon which work is being performed pending completion, and to exert diligent efforts to prohibit entry into such areas by members of his household and by invitees; and (ii) to indemnify and save harmless Developer and its contractors and agents from and against any and all loss or liability for death or injury to persons or damage of loss of property on account of such entry either by the apartment purchaser or his family and invitees.

(5) Developer shall have the right at its own expense, and without being required to obtain the consent or joinder of any apartment owner or lienholder, to execute and record such amendments to the Declaration and the Condominium Map as shall be necessary or appropriate in furtherance of the rights reserved to Developer to construct and complete the Second Increment, and without limiting the generality of the foregoing, Developer may amend the Declaration: (i) to create and establish the Second Increment; (ii) to describe and allocate the common interest and common elements appurtenant to the Second Increment; (iii) to decrease the common interest appurtenant to each apartment in the First Increment; and (iv) to merge the Second Increment with and into the First Increment. To the extent that the joinder of all apartment owners may be required in order to validate any such amendment of the Declaration, such joinder shall be accomplished by power of attorney from each apartment owner to Developer, and the acceptance of ownership of an apartment in the Project shall constitute a grant of such power and such grant, being coupled with the interest of the Developer to construct the Second Increment, shall be irrevocable so long as the rights reserved to Developer in the Declaration shall remain in existence pursuant to the terms thereof.

(6) Upon merger of the First and Second Increments, the Developer shall assign to each apartment in the merged project a new percentage of common interest, using such reasonable method of calculation as the Developer deems to be fair and equitable, provided only that all apartments of the same or similar type shall have the same or similar percentages of common interest in the merged project, provided further that

in computing the common interest appurtenant to each apartment in the merged project the Developer may take into account and make adjustments for such factors as differences among apartments in floor area or floor plan, view, location or any other matter which in the Developer's opinion substantially affects the value of an apartment and makes it not precisely comparable to another apartment of the same basic type.

(7) The merger of the Second Increment with the First Increment shall take effect only after the completion of such Second Increment and the issuance of a Certificate of Occupancy therefor and upon the recordation by Developer of an Amendment to the Declaration which shall certify that said increment has been completed as aforesaid and that the merger has been consummated. Without limiting the generality of the foregoing, the following consequences shall ensue from and after the effective date of such merger:

(i) Each of the increments so merged shall be treated for purposes of administration, use and sharing of common expenses as though they had been developed, divided into apartments and used by the owners thereof as a single undivided Project. The apartments in each of the merged increments shall have an equal and nonexclusive right to use the common elements constructed as a part of each of said increments, subject to the terms, conditions and limitations of the Declaration and the By-Laws attached thereto, and the apartments in each of the merged increments shall have appurtenant thereto an undivided percentage interest in the common elements of the Project, and for all other purposes including voting, as determined by the Developer pursuant to subparagraph (b) (6) above;

(ii) Developer may require the owners of the additional apartments added to the Project by merger to make contribution, in addition to their share of common expenses, to the maintenance reserves of the Project. Developer may provide that such contributions may be made over a period of time, and in establishing the amounts and terms of such contributions, Developer shall take into account the amount of maintenance reserves accumulated prior to the addition of such apartments and the conditions of the pre-existing apartments in the Project. The owners of additional apartments added to the Project by merger shall not be obligated to pay or assume any debts, expenses, costs or other obligations incurred by or on behalf of the Association of Apartment Owners as of the effective date of the merger, with the exception of any such debts, expenses, costs or obligations which were incurred for the common benefit of the apartments in the First Increment and owners of the additional apartments added to the Project by merger; and

(iii) Within sixty (60) days following the completion and merger of the Second Increment, a special meeting of the Association of Apartment Owners shall be called to elect a new Board of Directors to replace the existing board of directors and govern the entire Project. The procedures for calling and holding such a meeting and all of the meetings of the Association are set forth in the By-Laws of the Association.

(8) Nothing in the Declaration shall be deemed to impose on Developer any obligation to construct the Second Increment or to create any interest in any owner of any apartment in the First Increment in any of the apartments or common elements shown on the proposed Condominium Map as intended for development in the Second Increment.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated July 23, 1979, identifies Title Guaranty Escrow Services, Inc. as Escrow. On examination, the Condominium Deposit Receipt and Sales Contract and executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly Sections 514A-39, 514A-40 and Sections 514A-63 to 66.

The executed Escrow Agreement provides, among other things, that when Escrow is required to return money to a purchaser, or if the agreement is cancelled at any time after any funds have been deposited with Escrow, Escrow shall be entitled to a reasonable cancellation fee to compensate for services rendered in an amount commensurate with the amount of work performed, but not more than \$220.00 for each apartment sale being cancelled. A purchaser shall be entitled to a refund of his funds, and Escrow shall pay the funds to the purchaser, without interest, if purchaser requests in writing refund of his funds, provided one of the following has occurred:

(a) Seller has requested Escrow in writing to return to purchaser the funds of purchaser then being held by Escrow; or

(b) Purchaser's funds were obtained prior to the issuance of a Final Public Report and subsequent to the execution of purchaser's sales contract there is a change in the condominium building plans requiring the approval of a county officer having jurisdiction over the issuance of permits for the construction of buildings (unless purchaser has given written approval or acceptance of the specific change); or

(c) The Final Public Report differs in any material respect from the Preliminary Public Report; or

(d) If the Final Public Report is not issued within one year from the date of issuance of the Preliminary Public Report.

The Sales Contract provides, among other things, that the Developer may cancel the same for any of the following reasons:

(a) Developer is prevented by law from completing construction of the Project substantially in accordance with the plans and specifications as the same shall exist upon the execution of the Sales Contract;

(b) Construction of the Project is delayed for more than sixty (60) consecutive days by any cause beyond Developer's control;

(c) Buyer's credit or financial capability becomes unsatisfactory to Developer, or financing otherwise becomes unavailable to Buyer;

(d) Buyer breaches any term, covenant or condition of the Sales Contract; or

(e) Less than fifty-five percent (55%) of the apartments in the Project are sold by the date of occupancy.

In the event Developer shall elect to cancel the Sales Contract because of Buyer's breach thereof, Developer may, at Developer's option, retain as liquidated damages all sums theretofore paid by Buyer under said Sales Contract.

The Sales Contract further provides that the Buyer agrees that all the rights of Buyer under said contract are and shall be subordinate to the lien of any mortgage made prior or subsequent to the execution of the Sales Contract to finance the acquisition of the property and the cost of construction and other costs during construction and to any and all sums which may become a lien pursuant to the terms of any such mortgage or any other agreement relating to the acquisition of the land and the construction of the Project.

Prospective purchasers should read with care the executed Escrow Agreement and the Sales Contract. The former establishes how the proceeds from the sale of the condominium units are placed in trust as well as the retention and disbursements of said funds.

MANAGEMENT OF PROJECT: The Declaration provides that the operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The initial Managing Agent will be Kanaloa Realty and Property Managers, Inc., 75-5719 Alii Drive, Kailua, Kona, Hawaii.

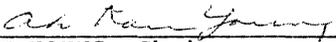
STATUS OF PROJECT: Final plans and specifications for the Project are being prepared and construction financing arrangements are being finalized. Developer has obtained its Planned Development and Special Management Area Use Permits and has obtained subdivision approval for the Project. Developer is in the process of negotiating the construction contract and expects to commence construction approximately November 1, 1979 and to complete construction approximately November 1, 1980.

* * * * *

The purchaser or prospective purchaser should be cognizant of the fact that this Public report represents information disclosed by the Developer in the required Notice of Intention submitted August 2, 1979 and information subsequently filed on September 20, 1979.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1157 filed with the Commission on August 2, 1979.

The report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimilies must be yellow.



AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

Distribution

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

Registration No. 1157

September 21, 1979