

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

KAMAHANA PHASE II
Princeville, Hanalei
Kauai, Hawaii

REGISTRATION NO. 1172

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 10, 1980
Expires: December 10, 1981

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 prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION FILED SEPTEMBER 7, 1979, AND INFORMATION SUBSEQUENTLY FILED AS OF NOVEMBER 5, 1980. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, 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 on Registration No. 1172, dated October 5, 1979, the Developer has forwarded additional information reflecting material changes that have been made in the documents for the project.

2. The Developer of the project has filed all documents and materials deemed necessary by the Commission for the registration of this condominium project and the issuance of this Final Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of the approved Floor Plans) have been recorded in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime dated September 17, 1980, with By-Laws attached was recorded as aforesaid in Liber 15069, Page 679.

The approved Floor Plans showing the layout, location, apartment numbers, etc., have been designated Condominium File Plan No. 765.

4. 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 the Horizontal Property Act, Chapter 514A of the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, November 10, 1980, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. This Final Public Report amends the Commission's Preliminary Public Report, and is made a part of registration on KAMAHANA PHASE II condominium project. The Developer has the responsibility of placing true copies of this Final Public Report (white paper stock), the Preliminary Public Report (yellow paper stock) and the revised Disclosure Abstract in the hands of all purchasers. Securing a signed copy of the Receipt therefor from each purchaser is also the responsibility of the Developer.

The information in the topical headings DEVELOPER, ATTORNEY REPRESENTING DEVELOPER, DESCRIPTION, COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, MANAGEMENT OF THE PROJECT and STATUS OF PROJECT has been altered as follows. All other topical headings have not been disturbed.

DEVELOPER: The Developer of the project has been changed to: KAMAHANA JOINT VENTURE ASSOCIATES, a Canadian joint venture, whose principal place of business in Hawaii is

445 Seaside Avenue, No. 4017, Honolulu, Hawaii, telephone: (808) 923-0909; whose partners are: ASTRAL ENERGY SYSTEMS, LTD., 2700 Shell Centre, 400-4th Avenue, SW, Calgary, Alberta; COMMERCIAL TRENCHING SERVICES LTD., 4723-111 A Street, Edmonton, Alberta; THEODOR M. CORCORAN, 611 Willingdon Boulevard, SE, Calgary, Alberta; KENNETH ROBINSON, 1880 Vow Valley Square II, Calgary, Alberta; KEITH BELL, #21, 68 Baycrest Place, SW, Calgary, Alberta; GORDON DIXON, 712 Lansdowne Avenue, SW, Calgary, Alberta; ROBERT DUNLOP, 97 Chinook Drive, SW, Calgary, Alberta; EDWARD GARDNER, P. O. Box 1101, Wailuku, Maui, Hawaii 96793; JOSEPH E. LORIMER, 2516 Wyatt Street, Oakville, Ontario, L6L 2M6; McLEAN MANAGEMENT SERVICES LTD., #2704, 505-4th Avenue, SW, Calgary, Alberta; B. HAROLD MONZINGO, 100 Colleen Crescent, SW, Calgary, Alberta; EUGENE SETKA, Suite 1222, 500-4th Avenue, SW, Calgary, Alberta; 3 B FARMING LTD., 6804 Ogden Road, SE, Calgary, Alberta, T2C 1B4; RICHARD RYLL, #519, 906-8th Avenue, SW, Calgary, Alberta; SOOLUX MANAGEMENT, 3018-3rd Street, SW, Calgary, Alberta, T2S 1V1; and GENE C. PATTON, #4017, 445 Seaside Avenue, Honolulu, Hawaii.

ATTORNEY REPRESENTING DEVELOPER: Hamilton, Gibson, Nickelsen, Rush & Moore (Attention: Walter Beh, II), 20th Floor, Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813, Phone: 521-0400.

DESCRIPTION: The following provisions in the Declaration of Horizontal Property Regime, concerning the merger of the project with an adjoining project, the Kamahana Condominium project, reflect the following:

"MERGER. Any provision of this Declaration to the contrary notwithstanding, the Fee Owner, at its sole option, may amend the Project by way of merger with the Kamahana Condominium Project, and the construction and addition to the Project, as so merged, of additional parking spaces, at any time up to, but not later than December 31, 1983, as hereinafter provided.

"1. The Project described herein is the second of two increments, the first being the Kamahana Condominium Project (hereinafter "Phase I"), the Declaration of which was filed in the Bureau of Conveyances of the State of Hawaii in Liber 13281, Page 254, as amended, and as shown on Condominium File Plan No. 577, as amended. Phase I consists of thirty (30) apartments, a cabana and a swimming pool, all as more particularly described in the aforesaid Declaration. The purpose of the merger provision of paragraph 0 is to provide for the merger of Phase I and this Project just as though the two increments had been developed as a single project. The proposed Project, as so merged and with said additional parking spaces, is as shown on the plan filed as an additional sheet to said Condominium

File Plan No. 577; said proposed plan shall be subject to amendment and correction by Fee Owner to reflect the actual construction of the Project and said additional parking spaces.

"2. Merger shall take effect only if the following conditions have been met:

(a) Recordation in the Bureau of Conveyances of the State of Hawaii of an amendment to the Phase I Declaration, allowing a merger of Phase I and this Project under terms consistent with those of this paragraph; and

(b) Recordation in the Bureau of Conveyances of the State of Hawaii by Fee Owner of a "Certificate of Merger", which shall contain:

(i) A certification by a Hawaii registered architect or professional engineer that all of the apartments of this Project are substantially completed;

(ii) The common interest of each apartment after the completion of the merger; and

(iii) A revised plot plan showing the location of the buildings of the merged increments after completion of the merger.

"3. From and after the date of the recordation of the said Certificate of Merger the following consequences shall ensue:

(a) Use of Common Elements. The apartments in each of the merged increments shall have the right to use the common elements in each increment to the same extent and subject to the same limitations as are imposed upon apartments in each increment just as though the merged increments had been developed as one increment.

(b) Common Interests. Each apartment of the merged increments shall have appurtenant thereto an undivided percentage interest in the common elements of the merged increments determined for each apartment by dividing the apartment's square footage by the total square footage of all apartments in the merged increments.

(c) Board of Directors. The Boards of the increments immediately prior to the merger of the increments shall jointly govern the merged increments until a special meeting of the Association of the merged increments is called for the purpose of electing a new Board consisting of three (3), five (5) or seven (7) directors (as determined by a majority vote of the apartment owners) to

govern the merged increments until the next annual meeting; the terms of at least one-third (1/3) of the directors shall expire annually. The procedure for calling such special meeting shall be that set forth in the By-Laws attached as Exhibit "C".

(d) Interpretation. For purposes hereof, each of the merged increments shall be treated as part of a single project developed as a whole from the beginning, and there shall be only one Association of Apartment Owners and one Board, and the Declaration of Horizontal Property Regime and By-Laws applicable to each merged increment shall be construed as one document applicable to the entire Project constituting the merged increments. It is the purpose hereof to provide that from and after the date of such merger all of the property so merged shall be treated as though it had been developed, divided into apartments, held, occupied and used by the owners thereof as a single undivided project.

"4. Such additional parking stalls shall be located on the lands of the Project as so merged as determined by Fee Owner in its sole discretion, with reference, however, to the advice of a registered architect or professional engineer.

"5. In connection with, and only to the extent necessary for the merger of the apartments and common elements of the two increments as aforesaid, and for the creation of said additional parking spaces, as aforesaid, Fee Owner shall have the right to enter upon the Project premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing said apartments and common elements according to plans and specifications or amended plans and specifications approved by the officer of the County of Kauai having jurisdiction over the issuance of building permits; to construct said additional parking stalls; to connect to each other the utilities of the two increments; to file amendments to the Declaration for purposes of certifying condominium maps filed as reflecting the improvements shown therein to be "as built".

"6. The Fee Owner shall have the right to execute, acknowledge and deliver any and all instruments necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this paragraph, all as the true and lawful attorney-in-fact of the respective owners from time to time of the apartments of this Project and Phase I."

The following provision has been added to the Declaration:

"RELOCATION OF EASEMENT AND PARKING STALLS.

Any provision of this Declaration to the contrary notwithstanding, the Fee Owner, at its sole discretion, may at any time up to, but not later than December 31, 1983, change the location of Easement R-2-B-1 described in said Exhibit "A" within the lands of the Project for the purpose of providing other equally suitable easements for access and utilities for Lot 4B, Parcel 1-B, Unit XII, located at Hanalei, Halelea, Kauai, Hawaii, and in connection therewith or independently thereof relocate the parking stalls of the Project located on said Easement R-2-B-1 as described in said Exhibit "A" or as so relocated. The Fee Owner shall have the right to execute, acknowledge and deliver any and all instruments necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this paragraph, all as the true and lawful attorney-in-fact of the respective owners from time to time of the apartments of the Project."

All other provisions under this topical heading remain unchanged.

NOTE: Approximately fifteen (15) parking stalls for the project are currently located within the area of the above-mentioned Easement R-2-B-1, and thus may be unavailable for use from time to time when the owner of said Lot 4B is using said easement for access to and from Lot 4B.

NOTE: The project as currently constituted has reduced the parking spaces from forty (40) to thirty (30) and does not contain the minimum number of parking stalls required under the zoning code of the County of Kauai. However, the Planning Department of the County of Kauai has approved of a parking proposal presented by the Developer under which the project and the adjoining Kamahana Condominium project will be merged and additional parking stalls will be added, all as shown on an additional sheet to the condominium map for the Kamahana Condominium project as indicated above, a copy of which has been supplied to the Commission.

COMMON ELEMENTS: One (1) freehold estate is designated in all remaining portions of the project, herein called the "common elements", including specifically but not limited to:

1. The land in fee simple;
2. All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party

and load-bearing walls, roofs, entries, stairways, walkways, entrances and exits of said buildings;

3. All yards, grounds and landscaping;
4. All parking areas;
5. Swimming pool;

6. 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 more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any; and

7. 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.

OWNERSHIP OF TITLE: A preliminary title report dated September 24, 1980, issued by Long & Melone, Ltd., as submitted to the Commission, indicates that Avanti Investment & Development Corporation, a Hawaii corporation, is the record fee simple owner of the property committed to the regime. The Declaration and other documents submitted to the Commission indicate that said corporation holds title to said land as agent for and on behalf of the Developer.

ENCUMBRANCES AGAINST TITLE: Said title report dated September 24, 1980, issued by Long & Melone, Ltd., and documents submitted to the Commission, provide that the following are encumbrances against title to the property:

1. For any 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 Fourth Division, County of Kauai, Hawaii.

2. Portion of Easement R-2 (22 feet wide) for road and utility purposes over and across Lot 5-A, Unit XII, Parcel 1-B, Princeville at Hanalei.

3. Grant of Easement dated June 19, 1975, for roadway and utility purposes over, under and across Easement R-2, and recorded in the Bureau of Conveyances, State of Hawaii in Liber 10756 at Page 267.

4. Easement S-1 (10 feet wide) for sanitary sewer purposes, as shown on File Plan 1350.

5. Grant of Easement dated October 29, 1975, for sanitary sewer purposes under and across said Easement S-1, and recorded in the Bureau of Conveyances, State of Hawaii, in Liber 11034 at Page 88.

6. Easement R-2-B-1 (15 feet wide) for road and utility purposes over and across Lot 5-A, Unit XII, Parcel 1-B, Princeville at Hanalei.

7. As to Easement R-2-B-1, the condition as contained in Correction Deed dated September 17, 1980, but effective March 12, 1980, recorded in the Bureau of Conveyances in Liber 14995, Page 447, to-wit.:

"At any time prior to December 31, 1983, either Grantee or Grantor upon ninety (90) days' prior written notice to the other party, may change the location of Easement R-2-B-1, provided that such relocation shall be equally suitable for purposes of providing access and utilities to Lot 4B, Parcel 1-B, Unit XII, located at Hanalei, Halelelea, Kauai, Hawaii. If said easement is relocated, the party changing the location of Easement R-2-B-1 shall, at its expense, prepare and after execution by both parties, record a correction deed conforming the description of Easement R-2-B-1 to said easement as relocated."

8. Declaration of Restrictions, Covenants and Conditions by Eagle County Development Corporation, dated March 1, 1971, recorded in the Bureau of Conveyances in Liber 7444, Page 93, as amended.

SPECIAL NOTATION: All apartment owners are subject to, bound by, and shall comply with the provisions of the Declaration of Restrictions, Covenants and Conditions and to become a member of the Princeville at Hanalei Community Association and subject to a monthly assessment of association dues.

9. Exception of title to that portion of the property lying below the highwater mark as presently or hereafter established by law or ruling of the Courts.

10. The provisions of Hawaii Revised Statutes with reference to Shoreline Setback.

11. Reservation in favor of Consolidated Oil & Gas, Inc., a Colorado corporation, of Easement R-2, over and across Lot 5-A; Easement R-2-B-1 and roadway lots in File Plan Nos. 1179, 1350 and 1360, as reserved in Deed dated November 20, 1979, recorded in the Bureau of Conveyances in Liber 14252, Page 688 and Correction Deed dated September 17, 1980, but effective March 12, 1980, recorded in Liber 14995, Page 447.

12. Mortgage dated November 20, 1979, between Avanti Investment and Development Corporation, a Hawaii corporation, as Mortgagor, and Consolidated Oil & Gas, Inc., a Colorado corporation, as Mortgagee, recorded in

the Bureau of Conveyances in Liber 14252, Page 703, in the amount of \$260,000.00, which Mortgage was assigned to Princeville Development Corporation, a Colorado corporation, by assignment dated February 4, 1980, recorded as aforesaid in Liber 14504, Page 443.

13. Easement E-2 (10 feet wide) for electrical purposes over and across Lot 5-A, as per survey of Wes Thomas and Associates, Inc.

14. Mortgage, Security Agreement and Financing Statement, dated November 13, 1979, between Kamahana Joint Venture Associates, a contractual joint venture, Debtor, and Avanti Investment & Development Corporation, a Hawaii corporation, as Mortgagors, and Bank of Hawaii, as Mortgagee, recorded in the Bureau of Conveyances in Liber 14446, Page 253, in the amount of \$675,000.00.

15. Grant of Easement, in favor of Citizens Utilities Company (Kauai Electric Division), dated December 6, 1976, recorded as aforesaid in Liber 14306, Page 238, granting an easement for electrical purposes over, under and across foregoing Easement E-2.

NOTE: The Developer advises it plans to grant utility easements over portions of the lands of the project, including without limitation an additional grant of electrical easement to Citizens Utilities Company, a Delaware corporation, the form of which has been supplied to the Commission.

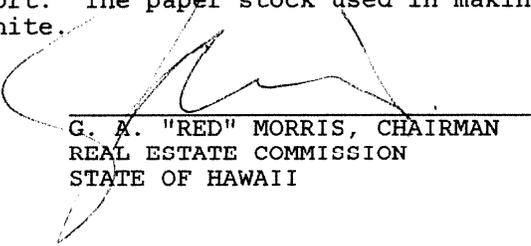
MANAGEMENT OF THE PROJECT: The By-Laws which are incorporated in the Declaration provide that the operation of the project shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible corporate managing agent. The Developer advises that the initial managing agent for the project is Aaron M. Chaney Inc., P. O. Box 3169, Lihue, Kauai, Hawaii 96766.

STATUS OF PROJECT: The Developer advises that construction of the project began on January 15, 1980 and that it estimates construction of the project will be completed on May 31, 1981.

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 September 7, 1979, and information subsequently filed as of November 5, 1980.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1172

filed with the Commission on September 7, 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

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FEDERAL HOUSING ADMINISTRATION
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REGISTRATION NO. 1172

November 10, 1980