

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
POIPU KAPILI
Poipu, Kauai

REGISTRATION NO. 1178

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: May 30, 1980

Expires: June 30, 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 SUBMITTED SEPTEMBER 17, 1979, AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 27, 1980. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME ACT, HAWAII REVISED STATUTES, CHAPTER 514A.

1. Since the issuance of the Commission's Preliminary Public Report on Registration No. 1178, dated October 22, 1979, the Developer has forwarded additional information reflecting changes that have been made in the documents for the project.

2. The Developer has filed all documents and materials deemed necessary by the Commission for 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 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

a. The Declaration of Horizontal Property Regime (filed as Amended Declaration of Horizontal Property Regime), with By-Laws attached has been filed as aforesaid, as Land Court Document No. 1011134.

b. The approved Floor Plans has been filed as aforesaid as Land Court Condominium Map No. 417.

4. Advertising or promotional matter has been filed pursuant to the rules and regulations of 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, May 30, 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 the POIPU KAPILI condominium project. The Developer has the responsibility of placing a true copy of this Final Public Report (white paper stock), the Preliminary Public Report (yellow paper stock), and revised Disclosure Abstract in the hands of all purchasers. Securing a signed copy of the Receipt for the foregoing from each purchaser is also the responsibility of the Developer.

The information in the topical headings DEVELOPER, DESCRIPTION, PERCENTAGE OF UNDIVIDED INTERESTS IN COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, and STATUS OF PROJECT have been amended as follows. All other topical headings have not been disturbed.

DEVELOPER: The Developer, KAPILI ASSOCIATES, a registered California Limited Partnership, also registered to do business in the State of Hawaii, with its principal place of business and post office address at 2101 Woodside Road, Redwood City, California, 94062, has acquired an additional General Partner and an additional Limited Partner, and a new business address in the State of Hawaii.

The additional General Partner is Ventura Development Corp., R.R. 1, Box 256, Kapaa, Kauai, Hawaii; which is also the new business address of the Developer in the State of Hawaii. Telephone No. (808) 822-4981.

The additional Limited Partner is Mel Ventura, R.R. 1, Box 256, Kapaa, Kauai, Hawaii.

An Amended Certificate of Limited Partnership has been filed in the Department of Regulatory Agencies, Division of Business Registrations, State of Hawaii.

DESCRIPTION: The total land area dedicated to the Horizontal Property Regime will be 211,431 square feet, instead of 211,440 square feet, for a net reduction of 9 square feet. This is to correct a discrepancy in the original description.

PERCENTAGE OF UNDIVIDED INTERESTS IN COMMON ELEMENTS: The percentage of common interest appurtenant to Apartments 27, 28, 43, and 44 has been reduced from 2.01603 to 2.01581, for a net reduction of .00022. This is to correct a discrepancy in the original computations.

The subparagraph "Additional Monthly Elevator Assessment" has been amended to also include the maintenance and repair of the stairways, as well as the elevators. Additionally, the cost of the replacement of the elevators, which was previously to be paid by the Association and all 60 apartment owners, has been amended and shall be paid by the Owners of apartment Nos. 26, 27, 28, 30, 42, 43, 44 and 46.

OWNERSHIP OF TITLE: A Preliminary Title Report issued on May 9, 1980, by Security Title Corporation shows that title to the real property subjected to the Horizontal Property Regime is vested in the Developer, KAPILI ASSOCIATES.

The 11 lots constituting the Horizontal Property Regime were conveyed by William Worrell Crowell and Eleanore Hale Crowell, to KAPILI ASSOCIATES by Warranty Deed dated March 10, 1980, Land Court Document No. 1002085.

Thereafter, the 11 lots were consolidated and re-subdivided into Lot 265, area 211,431 square feet, and Lot 266, area 8,380 square feet, by Order of the Land Court of the State of Hawaii dated and filed on April 22, 1980, Land Court Application No. 956. Certificate of Title No. 222451 has been issued to KAPILI ASSOCIATES as to Lots 265 and 266.

The Developer advises that Lot 266 has been conveyed to the County of Kauai by a Dedication Deed, for roadway purposes, as an addition to Kapili Road, a public highway, reserving in favor of Lot 265, and for the use and enjoyment of the owners of apartment units in the Poipu Kapili, an easement for vehicular and pedestrian access and for sanitary sewer, utility and other purposes, over, across, under and along said Lot 266 to Kapili Road.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report by Security Title Corporation dated May 9, 1980 shows the following encumbrances against title:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Fourth Division.
2. Declaration of Covenants, Conditions and Restrictions dated December 4, 1978, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 913543.

3. Covenants, Conditions and Restrictions as set forth in that certain Deed dated December 4, 1978, filed in said Office of the Assistant Registrar as Document No. 913544.
4. "... to the Grantor's right of first choice and selection to purchase a condominium unit within a condominium project to be constructed by the Grantee or any successor Grantee, on the property herein conveyed and on the adjacent properties or lots as set forth in Article IV (Additional Consideration) of that certain unrecorded Option Agreement and Agreement for Purchase and Sale of Real Property dated March 20, 1979 made by Grantor herein and Inwood Corporation, a California corporation, which Option Agreement was assigned to Grantee herein by unrecorded instrument dated May 18, 1979.", as contained in that certain Warranty Deed dated August 29, 1979, filed in said Office of the Assistant Registrar as Document No. 960430.
5. Mortgage dated March 10, 1980, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1002086, made by KAPILI ASSOCIATES, a California limited partnership, as Mortgagor(s), to STATE SAVINGS AND LOAN ASSOCIATION, a Utah corporation, as Mortgagee(s), to secure the repayment of the sum of \$10,500,000.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said mortgagor(s) therein referred to.
6. Mortgage dated August 29, 1979, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 960431, made by EDEN LODGE, a California non-profit corporation, as Mortgagor(s), to THADDEUS WOYTOWICZ WYATT, unmarried, as Mortgagee(s), to secure the repayment of the sum of \$181,000.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said mortgagor(s) therein referred to.
7. Mortgage dated March 13, 1980, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1002083, made by WILLIAM WORRELL CROWELL and ELEANORE HALE CROWELL, also known as ELEANOR HALE CROWELL, husband and wife, as Mortgagor(s), to THADDEUS WOYTOWICZ WYATT, unmarried, as Mortgagee(s), to secure the repayment of the sum of \$(Amount Unspecified), any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said mortgagor(s) therein referred to.

The Mortgages 6 and 7 above were subordinated to the Mortgage 5 above, by that certain Subordination Agreement dated March 13, 1980 filed in said Office of the Assistant Registrar as Document No. 1002084.

8. Undated Financing Statement covering certain fixtures located on the real property, given as security by KAPILI ASSOCIATES in favor of STATE SAVINGS AND LOAN ASSOCIATION, recorded on March 18, 1980 in said Bureau of Conveyances in Book 14582 Page 748.

9. An easement for vehicular and pedestrian access and for sanitary sewer, utility and other purposes, over, across, under and along Lot 266 in favor of Lot 265, as shown on Map 66, as set forth by Land Court Order No. 56415 filed April 25, 1980.
10. The covenants, agreements, obligations, conditions and other provisions set forth in that certain DECLARATION OF HORIZONTAL PROPERTY REGIME for POIPU KAPILI, dated April 28, 1980, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1011134.

NOTE: The above Declaration was inadvertently filed under the title "AMENDED DECLARATION OF HORIZONTAL PROPERTY REGIME".

11. Condominium Map No. 417, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on April 1, 1980.

NOTE: The Developer has advised the Commission that encumbrances Nos. 2, 3, and 4 will be released and cancelled of record prior to the conveyance of the apartment units to the Purchasers.

The Developer has also advised the Commission that encumbrance No. 5 will be released by partial releases, upon the payment to State Savings and Loan Association, a sum equal to 94% of the gross proceeds of the retail sales price of each apartment unit until the entire amount due and owing under this encumbrance has been paid in full; provided that upon the first request for releases at least 30% of the units in the project are ready to close simultaneously.

The Developer has also advised the Commission that encumbrances Nos. 6 and 7 will be released by partial releases upon consummation of the sales of the apartment units to the Purchasers, upon the deposit of funds received from the sale of each unit, in the same ratio as will be paid for partial releases to be executed by the construction mortgagee, but in no event less than \$5,000.00 per unit. The funds will be held and disbursed by Security Title Corporation, pursuant to an Escrow Agreement dated March 13, 1980.

PURCHASE MONEY HANDLING: Subsequent to the issuance of the Preliminary Public Report on October 22, 1979, the Payment Receipt and Sales Contract was amended by an "Amendment to the Poipu Kapili Condominium Payment Receipt and Sales Contract," to be executed by the Developer and all Purchasers. The amendments are as follows:

1. Paragraph 12, Page 5 is amended by deleting the following language commencing on Line 7 and continuing to Line 9:

"or in the event a construction loan for the Poipu Kapili is not funded and a binding commitment for take-out financing for Buyers of apartments in the Poipu Kapili is not received by the Seller by May 1, 1980,"

2. Paragraph 26, Page 10 is amended by deleting the entire first sentence of said first paragraph and substituting therefor, the following language:

"26. Buyer acknowledges that Seller may enter into an agreement with one or more responsible financial institutions (the "Construction Lender") pursuant to which the Construction Lender may loan an aggregate of up to \$12,000,000.00 at an interest rate equal to the higher of: (a) ten and one-half percent (10-1/2%) per annum, or (b) two and one-half percent (2-1/2%) per annum above the Prime Rate. The "Prime Rate" shall be deemed to mean that rate of interest charged either by Bank of Hawaii or First Hawaiian Bank, whichever charges the higher rate, to its most responsible commercial borrowers. The said Prime Rate shall be set from time to time and will be effective upon the date the rate changes."

3. Paragraph 28, Page 12 is amended by adding a sentence to read as follows:

"Notwithstanding any provision of this paragraph, Payment D will not be due until the Seller has obtained a certificate of occupancy for the building in which the Buyers' apartment is located, from the County of Kauai."

STATUS OF PROJECT: Completion of the project is now estimated to be March 1, 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 17, 1979, and information subsequently filed as of May 27, 1980.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1178 filed with the Commission on September 17, 1979.

This report, when reproduced, shall be a true copy of the Commission's Report. The paper stock used in making facsimiles must be white.


EDWIN H. SHTROMA, VICE 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. 1178

May 30, 1980