

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
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 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: October 22, 1979

Expires: November 22, 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED SEPTEMBER 17, 1979, AND INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 18, 1979. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME LAW, HAWAII REVISED STATUTES, CHAPTER 514A.

1. Poipu Kapili is a proposed fee simple condominium project consisting of sixty (60) residential apartments contained in seven (7) buildings. There are 28 apartments with one bedroom and 2 baths, there are 28 apartments with 2 bedrooms and 3 baths and four penthouses with 2 bedrooms and 2 baths. The Project will include separate buildings for a Manager's Office, and a Maintenance and Laundry facility to be made a part of the common elements. There will be a

total of ninety (90) parking spaces provided in the parking areas throughout the grounds of the Project. Sixty (60) parking spaces will be allocated to the apartments, and thirty (30) parking spaces will be used for guest parking. Each apartment shall always have one parking space appurtenant to it.

2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.
4. Preliminary advertising and promotional matter have not been submitted pursuant to rules and regulations promulgated by the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Hawaii Revised Statutes, Chapter 514A, and the rules and regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Report automatically expires thirteen (13) months after date of issuance October 22, 1979, unless a Final or Supplementary Public Report is published or the Commission, upon review of registration, issues an order extending the effective period of this report.
7. This Preliminary Report is made a part of the POIPU KAPILI registration. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and obtaining a signed receipt therefor from each such person.

NAME OF PROJECT: POIPU KAPILI.

LOCATION: Poipu, Kauai.

TAX KEYS: 2-8-15-3, 4, 5, 6, 7, 8, 38, 39, 40, 41 and 42.

ZONING: R-20, "Multi-family Residential"

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, and Suite 706, City Bank Building, 810 Richards Street, Honolulu, Hawaii 96813. Telephone: (415) 367-0320 and 538-7164 (Honolulu number).

The name and address of the General Partner is Inwood Corporation, William W. Crowell as President, 2101 Woodside Road, Redwood City, California 94062.

The names and addresses of each limited partner are: William W. Crowell and Eleanore H. Crowell, 598 Mt. Home Road, Woodside, California 94062; Flume Corporation, 2101 Woodside Road, Redwood City, California 94062; Stanton and Sandra Hale, Mullen Hill

Road, Windham, Connecticut; The Hale Children's Trust, William W. Crowell, Trustee, 2101 Woodside Road, Redwood City, California 94062; The Crowell Children's Trust and The Elizabeth Eyre Crowell Trust, J. Ronald Hershberger, Trustee, 525 University Avenue, Palo Alto, California 94301; Alan Stewart and Margaret Stewart, 12165 Hilltop Drive, Los Altos Hills, California 94022.

ATTORNEY REPRESENTING DEVELOPER: ROBERT K. FUKUDA, Suite 706, City Bank Building, 810 Richards Street, Honolulu, Hawaii 96813. Telephone No. 538-7164.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime shows that the project consists of 211,440 square feet of land in fee simple and seven (7) buildings containing apartment units, plus an office or reception building, a maintenance building, two lighted tennis courts, a swimming pool and Jacuzzi, ninety parking spaces, driveways and landscaping.

The buildings will be constructed principally of reinforced concrete slabs, concrete blocks, wood, glass, and aluminium. The driveways and parking spaces will be constructed of asphaltic paving material.

The buildings containing the apartment units are numbered 1, 2, 3, 4, 5, 6, and 7 on the Condominium Map. The apartment units and their approximate areas are described as follows:

Building 1 will be a two story "townhouse" type structure and will contain apartments 1, 2, 3, 4, 5 and 6. Each apartment will include a living and dining room, kitchen, and bathroom on the ground floor, and two bedrooms and two bathrooms on the second floor.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
1	A	1837	18	157.5
2	B	1837	18	90
3	BR	1837	0	90
4	B	1837	9	90
5	BR	1837	18	90
6	AR	1837	18	157.5

Building 2 will be a two story "townhouse" type structure and will contain apartments 7, 8, 9, 10, 11 and 12. Each apartment will include a living and dining room, kitchen, and bathroom on the ground floor, and two bedrooms and two bathrooms on the second floor.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
7	A	1837	18	157.5
8	B	1837	18	90
9	BR	1837	0	90
10	B	1837	9	90
11	BR	1837	18	90
12	AR	1837	18	157.5

Building 3 will be a two story "townhouse" type structure and will contain apartments, 13, 14, 15, 16, 17 and 18. Each apartment will include a living and dining room, kitchen, and bathroom on the ground floor, and two bedrooms and two bathrooms on the second floor.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
13	A	1837	18	90
14	B	1837	18	90
15	BR	1837	9	90
16	B	1837	0	90
17	BR	1837	18	90
18	AR	1837	18	90

Building 4 will be a partly two story and partly three story "townhouse" structure and will contain apartments 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36. Apartments 19, 21, 23, 25, 29, 31, 33 and 35 will be on the ground floor and will include a living and dining room, a bedroom, a kitchen and two bathrooms. Apartments 20, 22, 24, 26, 30, 32, 34 and 36 will be on the second floor and will contain a living and dining room, a bedroom, a kitchen and two bathrooms. Apartments 27 and 28 are penthouse units and will be on the third floor and will contain a living room, a dining room, two bedrooms, two bathrooms, a kitchen, a laundry area and two lanais.

Building 4 will also contain an elevator for the use of apartments 26, 27, 28 and 30.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
19	C	1134	30	90
20	C	1134	30	97
21	D	1150	30	90
22	D	1150	30	97
23	E	1170	15	90
24	E	1170	30	97
25	F	1098	0	100
26	F	1098	30	108
27	G	1827	31	782.5
28	GR	1827	31	782.5
29	FR	1098	15	100
30	FR	1098	30	108
31	ER	1170	30	90
32	ER	1170	30	97
33	DR	1150	30	90
34	DR	1150	30	97
35	CR	1134	30	90
36	CR	1134	30	97

Building 5 will be a partly two story and partly three story "townhouse" structure and will contain apartments 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50. Apartments 37, 39, 41, 45, 47 and 49 will be on the ground floor and will include a living and dining room, a bedroom, a kitchen and two bathrooms. Apartments 38, 40, 42, 46, 48, and 50 will be on the second floor and will contain a living and dining room, a bedroom, a kitchen and two bathrooms. Apartments 43 and 44 are penthouse units and will be on the third floor and will contain a living room, a dining room, two bedrooms, two bathrooms, a kitchen, a laundry area and two lanais.

Building 5 will also contain an elevator for the use of apartments 42, 43, 44 and 46.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
37	Da	1150	30	90
38	Da	1150	30	97
39	E	1170	15	90
40	E	1170	30	97
41	F	1098	0	100
42	F	1098	30	108
43	G	1827	31	782.5
44	GR	1827	31	782.5
45	FR	1098	15	100
46	FR	1098	30	108
47	ER	1170	30	90
48	ER	1170	30	97
49	DaR	1150	30	90
50	DaR	1150	30	97

Building 6 will be a two story "townhouse" type structure and will contain apartments 51, 52, 53, 54, 55 and 56. Each apartment will include a living and dining room, kitchen, a laundry area and bathroom on the ground floor, and two bedrooms and two bathrooms on the second floor.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
51	A	1837	18	157.5
52	B	1837	18	90
53	BR	1837	9	90
54	B	1837	0	90
55	BR	1837	18	90
56	AR	1837	18	157.5

Building 7 will be a two story "townhouse" type structure and will contain apartments 57, 58, 59 and 60. Each apartment will include a living and dining room, kitchen, a laundry area and bathroom on the ground floor, and two bedrooms and two bathrooms on the second floor.

<u>Apartment Unit No.</u>	<u>Apartment Type</u>	<u>Living Area</u>	<u>Storage Area</u>	<u>Lanai or Balcony Area</u>
57	A	1837	18	157.5
58	B	1837	18	90
59	BR	1837	9	90
60	AR	1837	18	157.5

All apartments in Buildings 1, 2, 3, 6 and 7 will have access to walkways which will be immediate common elements.

All apartments on the ground floor in Buildings 4 and 5 will have access to walkways which will be immediate common elements.

All apartments on the second floor of Buildings 4 and 5 and the penthouses in Buildings 4 and 5 will have access to stairways which will be immediate common elements.

In addition, in Building 4, apartments 26, 27 (penthouse), 28 (penthouse), and 30 will have access to an elevator which will be a limited common element appurtenant to and for the use of said apartment units; and in Building 5, apartments 42, 43 (penthouse), 44 (penthouse), and 46 will have access to an elevator which will be a limited common element appurtenant to and for the use of said apartment units.

All percentages of common interest are computed on the basis of the living area of the respective apartments, excluding all storage areas and lanai or balcony areas.

Apartment Unit Definition and Boundaries.

Each apartment unit shall be a separate freehold estate, and shall include: the air space within the boundary walls, floors, ceiling, and the exterior edge of lanais or the exterior glass line where no lanais occur; all walls and partitions which are not loadbearing; doors, door frames, windows, window frames; all paint, wall paper, tile, stain or other finishing on the interior surfaces of the boundary walls, floors, ceilings and lanais; and all carpets, drapes, furniture, appliances and fixtures originally installed.

The apartment units shall not be deemed to include the floors, ceilings, or any load bearing walls, although area calculations may be based on centerline measurements, nor any pipes, wires, ducts, cables, conduits, chases or other utility or service lines running in or through an apartment unit and installed, designed or utilized to serve more than one unit, the same being deemed common elements.

Common Elements.

All remaining portions and appurtenances of the project shall constitute a single freehold estate, herein called the "Common Elements", including but not limited to the following:

(a) The above-described lands in fee simple, subject to the above-mentioned covenants, restrictions and encumbrances.

(b) The foundations, columns, girders, beams, supports, load-bearing walls, floor slabs, ceilings, roofs, roof coverings, stairs, stairways, stair railings, roads, driveways, sidewalks, entrances and exits and all paint or other covering on the exterior surfaces of the buildings, all surfacing and paint markings in the roads, driveways and parking spaces.

(c) All yards, trees, plants, grass, landscaping, swimming pool, swimming pool equipment, recreational facilities, refuse facilities, and the enclosures around them, tennis courts, Jacuzzi, the office or reception building and the maintenance building.

(d) All 30 guest parking spaces.

(e) The Manager's Office Building and the Maintenance and Laundry Building.

(f) The swimming pool and tennis courts and any appurtenant deck areas.

(g) All machines, motors, pumps, compressors, fans, gears, pulleys, cables, tanks, and other apparatus of any nature installed, designed or utilized to serve more than one apartment unit, except the elevators and elevator machinery in Buildings 4 and 5.

(h) All pipes, wires, ducts, cables, conduits, chases or other utility or service lines installed, designed, or utilized to serve more than one apartment unit, and all appurtenant equipment, installations and apparatus, for power, light, telephone, hot and cold water, gas, sewer, radio and television reception.

(i) Any and all other parts of the buildings and any and all real and personal property and property interests of any nature appurtenant to the foregoing items, or useful, necessary or convenient to the existence, maintenance or operation of the same.

Limited Common Elements.

Certain parts of the common elements, herein called the "Limited Common Elements", are hereby designated and set aside for the exclusive use of specified apartment units, and such apartment units shall have easements appurtenant thereto for the use of such limited common elements, as follows:

(a) The entrances and stairways and stairway landings shall be appurtenant to and for the exclusive use of the apartments which they serve.

(b) The 60 apartment parking spaces designated on the Condominium Map by a number corresponding with an apartment number shall be appurtenant to and for the exclusive use of that apartment, its owners, guests, invitees and tenants. The designated parking spaces and the rights to use the same may be transferred between and among the owners of apartments in the Poipu Kapili, as provided in Chapter 514A, Hawaii Revised Statutes, as amended, provided that each apartment shall always have as appurtenant one parking space and the right to use the same for one passenger automobile.

(c) The elevator in Building 4 shall be appurtenant to and for the exclusive use of apartments 26, 27 (penthouse), 28 (penthouse), and 30, their owners, guests, invitees and tenants.

(d) The elevator in Building 5 shall be appurtenant to and for the exclusive use of apartments 42, 43 (penthouse), 44 (penthouse), and 46, their owners, guests, invitees and tenants.

Percentage of Undivided Interests in Common Elements.

Each apartment unit shall have appurtenant thereto an undivided interest in the common elements, subject to the covenants, restrictions and encumbrances stated hereinabove, as specified and established herein for such, and known as the "common interest". The percentage appurtenant to each apartment unit shall be the basis for the determination and allocation of common assessments and expenses and profits to be shared by the owners of the respective apartment units; for voting in the Association of Owners; and for all other related purposes. The common interest appurtenant to each apartment unit shall be as follows:

<u>Apt. Unit No.</u>	<u>Apt. Type</u>	<u>Living Area</u>	<u>% of Common Interest</u>
1	A	1837	2.02706
2	B	1837	2.02706
3	BR	1837	2.02706
4	B	1837	2.02706
5	BR	1837	2.02706
6	AR	1837	2.02706
7	A	1837	2.02706
8	B	1837	2.02706
9	BR	1837	2.02706
10	B	1837	2.02706
11	BR	1837	2.02706
12	AR	1837	2.02706
13	A	1837	2.02706
14	B	1837	2.02706
15	BR	1837	2.02706
16	B	1837	2.02706
17	BR	1837	2.02706
18	AR	1837	2.02706
19	C	1134	1.25133
20	C	1134	1.25133
21	D	1150	1.26898
22	D	1150	1.26898
23	E	1170	1.29105
24	E	1170	1.29105
25	F	1098	1.21169
26	F	1098	1.21169
27	G	1827	2.01603
28	GR	1827	2.01603
29	FR	1098	1.21169
30	FR	1098	1.21169
31	ER	1170	1.29105
32	ER	1170	1.29105
33	DR	1150	1.26898
34	DR	1150	1.26898
35	CR	1134	1.25133
36	CR	1134	1.25133
37	Da	1150	1.26898
38	Da	1150	1.26898
39	E	1170	1.29105
40	E	1170	1.29105
41	F	1098	1.21169
42	F	1098	1.21169
43	G	1827	2.01603
44	GR	1827	2.01603
45	FR	1098	1.21169
46	FR	1098	1.21169
47	ER	1170	1.29105
48	ER	1170	1.29105
49	DaR	1150	1.26898
50	DaR	1150	1.26898
51	A	1837	2.02706
52	B	1837	2.02706
53	BR	1837	2.02706
54	B	1837	2.02706
55	BR	1837	2.02706
56	AR	1837	2.02706
57	A	1837	2.02706
58	B	1837	2.02706
59	BR	1837	2.02706
60	AR	1837	2.02706
Total		90624 sq. ft.	100.00000 %

Water

All water supplied to the Poipu Kapili will be measured by a single meter and shall be a common expense, to be divided and paid by all the apartment owners according to their percentage of common interests, including all water consumed by and within all apartments, as well as water used for lawn and landscape watering, swimming pool, Jacuzzi, and all other common uses.

Electricity

All apartments will be separately metered for electricity and separately billed for all electricity consumed by and within each apartment, the payment of which shall be the obligation and responsibility of each apartment owner.

Electricity for the outdoor lighting of the tennis courts, swimming pool, parking areas, and all other common uses including the office building, maintenance and laundry building, Jacuzzi, pumps and machinery (except the elevators), shall be common expenses, to be divided and paid by all the apartment owners according to their percentage of common interests.

Additional Monthly Elevator Assessment.

In addition to the common assessments for maintenance and expenses based on the percentage of common interest, apartments 26, 27 (penthouse), 28 (penthouse) and 30 in Building 4 and apartments 42, 43 (penthouse), 44 (penthouse) and 46 in Building 5, and the owners of said apartments, will be charged an additional assessment each month for the operation, maintenance and repair of the respective elevators in said buildings. This assessment shall be initially in the amounts hereinafter set forth, which includes the cost of electricity for the operation of the elevators, and until changed by the owners of the said apartments.

	<u>Building 4</u>	<u>Building 5</u>	<u>Additional Monthly Elevator Assessment</u>
Apartment No.	26	42	\$28.15
Apartment No.	27	43	\$46.85
Apartment No.	28	44	\$46.85
Apartment No.	30	46	\$28.15

This assessment shall be paid by the Owners of said apartments without contribution on the part of the owners of the other apartments of the Poipu Kapili. However, the replacement of the elevators shall be paid for by the Association and all 60 apartment owners, according to their respective percentages of common interest.

Alteration and Transfer of Common Interests.

The common interests and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby as expressed in an amendment to the Declaration duly recorded, shall not be separated from such apartment and shall be deemed to be conveyed or encumbered with such apartment even though not expressly mentioned or described in the conveyance or other instrument.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided in Hawaii Revised Statutes, Chapter 514A, as amended.

Purpose of Buildings and Restrictions as to Use.

All buildings are intended for residential use and shall be used for no other purpose, in accordance with the terms of the Declaration, the By-Laws of the Association of Apartment Owners, and the House Rules, as they exist or as they may be amended from time to time, and each owner shall also observe, comply with and perform all applicable laws, ordinances and rules and regulations, of all governmental agencies; provided that any apartment owner may at any time rent or lease his apartment or any part thereof for income purposes individually or in concert with any other apartment owner or owners.

BY-LAWS: Prospective purchasers are advised to carefully read the proposed By-Laws attached to the proposed Declaration of Horizontal Property Regime which provide for the formation of the association of apartment owners, the election of the board of directors and officers of the association, the administration of the condominium, and the obligations of apartment owners.

OWNERSHIP OF TITLE: A preliminary title report issued on September 27, 1979 by Security Title Corporation shows that title to the real property subjected to the Horizontal Property Regime is vested in WILLIAM WORRELL CROWELL and ELEANORE HALE CROWELL, by the following deeds:

(a) Deed dated December 4, 1978 by Paul Jonathan Hoekenga, Jr., as Grantor, as to Lots 92, 95, 97 and 99, Land Court Document No. 913546.

(b) Deed dated December 4, 1978 by Paul Jonathan Hoekenga, Jr., as Grantor, as to Lots 93 and 94, Land Court Document No. 913547.

(c) Deed dated August 29, 1979 by Eden Lodge, as Grantor, as to Lot 102, Land Court Document No. 960432.

(d) Deed dated August 29, 1979 by Eden Lodge, as Grantor, as to Lot 101, Land Court Document No. 960434.

(e) Deed dated September 14, 1979 by Homer Halbert Hutton and Gertrude Lavoie Hutton, as Grantors, as to Lots 96 and 98, Land Court Document No. 967157.

(f) Deed dated September 14, 1979 by Stanton Douglas Hale and Sandra Jean Hale, as Grantors, as to Lot 100, Land Court Document No. 968238.

WILLIAM WORRELL CROWELL and ELEANORE HALE CROWELL have executed a "Lease and Option to Acquire" dated August 20, 1979, whereby FLUME CORPORATION, a California corporation will acquire the fee simple title to the said 11 lots.

The FLUME CORPORATION has executed an "Assignment" of the said Lease and Option to Acquire dated August 20, 1979 to Kapili Associates, the Developer.

By means of an Apartment Deed the Developer will convey to the purchaser, fee simple title to an apartment, together with an undivided fee simple interest in the land.

The said 11 lots will be consolidated into two lots identified as Lots 265 and 266, Land Court Application 956. Lot 266, area, 8,364 square feet will be conveyed to the County of Kauai for roadway purpose and Lot 265, area 211,440 square feet will be the land submitted to the horizontal property regime.

ENCUMBRANCES AGAINST TITLE: The above Preliminary Title Report of Security Title Corporation shows the following encumbrances to the real property:

FOR ALL PARCELS

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.

PARCEL FIRST - As to Lots 92, 93, 94, 95, 97, and 99:

2. The covenants as set forth in that certain Deed dated June 3, 1957, filed in Land Court as Document No. 204054. (As to Lot 93)
3. The restrictive covenants as set forth in that certain Deed dated January 15, 1957, filed as Land Court Document No. 198252. (As to Lot 94)
4. Declaration of Covenants, Conditions and Restrictions dated December 4, 1978, filed as Land Court Document No. 913543.
5. Covenants, conditions and restrictions as set forth in that certain Deed dated December 4, 1978, filed as Land Court Document No. 913544. (As to Lots 92, 95, 97 and 99)
6. Mortgage dated December 4, 1978, filed as Land Court Document No. 913545, in favor of FIRST HAWAIIAN BANK and VALDEMAR L'ORANGE KNUDSEN, Trustees under Deed of Trust made by ERIC A. KNUDSEN. (As to Lots 92, 95, 97 and 99)
7. Mortgage dated March 19, 1979, filed as Land Court Document No. 928638, in favor of BANK OF HAWAII. (As to Lot 93)

PARCEL SECOND - As to Lots 96 and 98:

8. The restrictive covenants as set forth by that certain Deed dated April 22, 1957, filed as Land Court Document No. 202224.

PARCEL THIRD - As to Lot 100:

9. The covenants as set forth in that certain Deed dated June 4, 1957, filed as Land Court Document No. 203876.
10. Mortgage dated September 14, 1979, filed as Land Court Document No. 968239, in favor of STANTON DOUGLAS HALE and SANDRA JEAN HALE; WILLIAM WORRELL CROWELL, as trustee under an unrecorded Hale Children's Trust Agreement; JAMES RONALD HERSHBERGER, as Trustee under an unrecorded Crowell Children's Trust Agreement; JAMES RONALD HERSHBERGER, as Trustee under an unrecorded Elizabeth Eyre Crowell Trust Agreement.

As to Lot 101:

11. The restrictive covenants as set forth in that certain Agreement dated August 15, 1975, filed as Land Court Document No. 769954.

As to Lot 102:

12. The restrictive covenants as set forth in that certain Deed dated April 16, 1957, filed as Land Court Document No. 202225.
13. "... 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 as Land Court Document No. 960430.
14. Mortgage dated August 29, 1979, filed as Land Court Document No. 960431, in favor of THADDEUS WOYTOWICZ WYATT.

NOTE: The Developer advises that the restrictive covenants identified above as Encumbrance Numbers 2, 3, 8, 9, 11 and 12 are in the process of being cancelled by filing of a declaration in the Land Court registry. A provision for changes to be made by "agreement of the owner of at least 2/3 of all residential lots within the resubdivision" known as Knudsen Koloa Landing is included in the covenants. The Knudsen Estate being owners of more than 2/3 of all residential lots did effect a cancellation of the restrictive covenants by way of a Declaration dated December 15, 1975, filed as Land Court Document 769954. Owners other than the Knudsens will be required to take further steps to have the cancellation noted on their certificates. The Developer has furnished the Commission with a copy of the Knudsen Estates Declaration.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated September 26, 1979 identifies Security Title Corporation, a Hawaii corporation, as Escrow. On examination, the specimen Condominium Payment Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A Hawaii Revised Statutes and particularly Sections 514A-37, 39, 40 and 63 through 66.

Among other provisions, the executed Escrow Agreement states that a Purchaser under a Sales Contract shall be entitled to a refund of all monies deposited with the Escrow with interest thereon up to five and a quarter percent (5 1/4%), if any of the following events shall have occurred:

1. The Buyer's funds were obtained prior to the issuance of a Final Public Report for the Project and such Final Public Report differs in any material respect from any previous Public Report for the Project unless the Buyer has given written approval or acceptance of the specific change;
or

2. The Buyer's funds were obtained prior to the issuance of a Final Public Report for the Project and there is any change in the condominium building plans subsequent to the execution of the Sales Contract requiring approval of a county officer having jurisdiction over issuance of permits for construction of buildings, unless the Buyer has given written approval or acceptance of the specific change or ninety (90) days have elapsed since the Buyer had accepted the apartment in writing or since the Buyer had first occupied the apartment; or

3. The Final Public Report for the Project is not issued within one (1) year of the Date of the issuance of the Preliminary Public Report; provided that if the Final Public Report is issued after the one-year period and a copy of the Final Report is delivered to the Buyer either personally or by registered or certified mail with return receipt requested and at the same time the Buyer is notified in writing of his right of refund and cancellation of obligation and the waiver of such right upon his failure to act within a thirty-day period, the Buyer shall have thirty (30) days from the date of delivery of the Final Report to exercise his right of refund and cancellation of obligation, after which period such right shall be deemed waived.

The Escrow Agreement also provides that the Seller may cancel the Sales Contract pursuant to Paragraphs 12 and 13 thereof.

In the event the Seller elects to cancel the Sales Contract pursuant to Paragraph 12, the Escrow shall promptly pay from the Buyer's funds, all escrow fees, document costs, attorney's fees and all other actual expenses incurred by the Seller and the Escrow. The balance of the Buyer's funds shall be paid to the Buyer without interest. All interest earned on the Buyer's funds shall be the property of the Seller, and shall be paid to the Seller.

In the event the Seller elects to cancel the Sales Contract pursuant to Paragraph 13, the Escrow shall treat all funds paid by the Buyer as the property of the Seller, and shall promptly pay therefrom all escrow fees, document costs, attorney's fees and all other actual expenses incurred by the Seller and the Escrow, and shall pay the balance of all such funds to the Seller, including all interest earned on the Buyer's funds, which shall be the property of the Seller, and shall be paid to the Seller.

Upon thirty (30) days' written notice from the Seller, the Escrow shall "preclose" all sales by arranging for the execution of the Apartment Deed and such other documents as are required to effect transfer of title, and by calling for the payments then required from the Buyer, all as provided in the Sales Contract.

Among other provisions, the specimen Sales Contract filed with the Commission contains the following provisions:

1. All Buyers' moneys shall be delivered to the Escrow and the Escrow is hereby instructed by the Buyers and the Seller to deposit the same in an interest bearing account in a bank or savings and loan institution, and to pay to the Buyers, interest earned on such deposit up to Five and one-quarter percent (5-1/4%). All earned interest over and above Five and one-quarter percent (5-1/4%) shall be the property of the Seller. This joint instruction to the Escrow is made pursuant to Hawaii Revised Statutes, Secs. 402-8 and 449-16.5.

2. In the event the Seller or the financial institution are not satisfied as to the Buyers' financial ability, or in the event any of the individual Buyers should die before the full price is paid to the Seller, or in the event a Final Public Report for the Poipu Kapili Condominium has been issued and the total sales of apartment units to Buyers who have executed and delivered their receipts for the Final Public Report, is less than NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$9,800,000.00) on March 1, 1980, or upon the happenings of any event of default, the Seller may in its sole discretion elect to cancel this Sales Contract and refund to the Buyers all moneys paid by the Buyers, less all interest earned thereon, which shall be the property of the Seller, all escrow fees, document costs, attorney's fees and all other actual expenses incurred by the Seller and the Escrow. Upon such election, the Buyers and the Seller expressly instruct the Escrow to make such deductions from the Buyers payments and to pay the balance to the Buyers. Notice of such election shall be made by the Seller to the Escrow, but no notice to the Buyers shall be necessary or required. The Buyers and the Seller agree that upon such payment to the Buyers, the Escrow shall be conclusively released from all other and further responsibility and liability to the Buyers on any and all accounts. This joint instruction to the Escrow is made pursuant to, and shall satisfy the requirements of, Hawaii Revised Statutes, Secs. 402-8 and 449.16.5.

3. The Sales Contract shall not be effective and binding or enforceable against the Buyers until the Buyers and the Seller have executed it, and:

- (a) A true copy of the Real Estate Commission's Final Public Report and all Supplementary Public Reports, if any, have been issued, have been delivered to the Buyers, either personally or by registered or certified mail with return receipt requested,
- (b) The Buyers have been given the opportunity to read the Reports, which shall be conclusively presumed 48 hours after delivery by registered or certified mail,
- (c) The Buyers execute their receipts for the Reports; provided that if the Buyers do not execute and return their receipts for the Reports within thirty (30) days from the date of delivery of such Reports, they shall be deemed to have receipted for the Reports; provided further, that such receipts shall be effective only if at the time of the delivery of the Reports the Buyers are notified in writing of the fact that they will be deemed to have executed their receipts for the Reports upon their failure to act within the thirty (30) day period.

4. The Buyers understand that the Seller will borrow money from an interim lender ("Interim Lender") for the construction of the Project and that the Interim Lender will have a lien and security interest under various security instruments securing the loan (the "Construction Loan"). The Buyers hereby agree that the Construction 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 this Sales Contract.

The Buyers hereby expressly waive, relinquish and subordinate the priority or superiority of any interest under this Sales Contract in favor of the liens, security interests and charges of the Construction Loan upon the Project. The Buyers shall execute any subordination agreement required by the Interim Lender to evidence this subordination, and hereby appoint the Seller as Buyers' attorney-in-fact to execute any such subordination agreement.

MANAGEMENT AND OPERATIONS: The Declaration provides that the operation of the project shall be conducted for the Association by a responsible managing agent who shall be appointed by the Association in accordance with the By-Laws. By virtue of an agreement dated October 1, 1979, Colony Condominium Management, Inc., a Hawaii corporation has been designated the initial managing agent.

WARRANTIES: The specimen Apartment Deed contains a Covenant that the Grantor is lawfully seized in fee simple of the property and rights sold and conveyed to the Grantee, and has good right to sell and convey the same, and the Grantor and its successors and assigns shall warrant and defend the same unto the Grantee, against the lawful claims and demands of all persons, forever.

The Sales Contract states that the Seller agrees to require from the general contractor of the project, a written warranty with respect to any defects in the Buyer's apartment and the common elements and limited common elements due to defective materials, equipment or workmanship which are discovered and reported within one (1) year from the date of completion of the project, as defined in Hawaii Revised Statutes, Section 507-43. The Seller disclaims any express or implied warranty of any kind with respect to furnishings and appliances, including merchantability and fitness for any particular purpose. However, Buyers shall have the benefit of any existing manufacturer's or dealer's warranties.

There are no other warranties, expressed or implied, as to the real property, the construction or condition of the buildings or apartments of the project, or otherwise.

STATUS OF THE PROJECT: The construction of the POIPU KAPILI commenced on October 1, 1979 and completion of construction is estimated to be approximately November 30, 1980.

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 October 18, 1979.

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

The report, when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles the paper stock shall be yellow in color.



GEORGE A. MORRIS for the Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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Registration No. 1178
October 22, 1979.