

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on

KAHEKILI GROVE CONDOMINIUM
(FORMERLY HALE KAHEKILI)
Lower Honoapiilani Highway
Honokowai, Lahaina, Maui, Hawaii

Registration No. 1180

This Report Is Not an Approval or Disapproval of This Condominium Project

It was prepared as a supplement to an earlier Report dated April 3, 1980 and September 2, 1981, issued by the Real Estate Commission on the above 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: June 30, 1982
Expires: July 30, 1983

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 SEPTEMBER 25, 1979 AND INFORMATION SUBSEQUENTLY FILED AS OF JUNE 24, 1982. THE DEVELOPER, BY 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 of April 3, 1980 and Final Public Report of September 8, 1981, on Hale Kahekili Condominium, Registration No. 1180, the Developer reports that changes have been made to the project as presented in the documents submitted for the earlier reports.

The changes subsequently made are determined to be a material revision to the information disclosed earlier. This Supplementary Public Report (pink paper stock) amends the Preliminary Public Report (yellow paper stock) and Final Public Report (white paper stock), becoming a part of the KAHEKILI GROVE (formerly Hale Kahekili) condominium registration. The Developer is responsible for placing a true copy of this Supplementary Public Report in the hands of all purchasers and prospective purchasers, along with the Final and Preliminary Public Reports and Disclosure Abstract. Securing a signed copy of the Receipt therefor is also the responsibility of the Developer.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration and the updating of information disclosed therein.
3. The basic documents (Declaration of Horizontal Property Regime, the amendments thereto, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime, dated August 27, 1980, with the By-Laws of the Association of Apartment Owners, was filed with the Bureau of Conveyances of the State of Hawaii in Liber 15676 at Page 172. The Amendment to the Declaration of Horizontal Property Regime, dated August 28, 1981, and the Second Amendment to the Declaration of Horizontal Property Regime, dated May 13, 1982, were recorded in Liber 15789 at Page 796, and in Liber 16374 at Page 782, respectively.

The Bureau of Conveyances has assigned to the project Condominium Map No. 813, as amended.

4. No advertising or promotional material has been submitted 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 Chapter 514A, Hawaii Revised Statutes, as amended, and the Condominium Rules and Regulations promulgated thereunder which relate to Horizontal Property Regimes.
6. This Supplementary Public Report automatically expires thirteen (13) months after date of issuance, July 30, 1982, unless another supplementary public report is issued or the Commission upon review of the registration issues another order extending the effective period of this report.

The information in the topical headings NAME OF PROJECT, TAX MAP KEY, DEVELOPER, COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, FINANCING OF THE PROJECT, and STATUS OF PROJECT in the Preliminary and Final Public Reports

dated April 3, 1980, and September 8, 1981, respectively, have been amended. Information disclosed in the remaining topical headings of the said Preliminary and Final Public Reports have not been disturbed.

NAME OF PROJECT: KAHEKILI GROVE

TAX MAP KEY: 4-3-6-2

DEVELOPER: J & J Development Co., Inc., a Hawaii corporation, c/o James K. Schuler, 10th Floor, American Savings & Loan Building, 915 Fort Street, Honolulu, Hawaii 96813; Telephone 521-5661; whose officers are: William A. Jorgensen, President, Secretary and Treasurer, and James K. Schuler, Vice President.

COMMON ELEMENTS: The jacuzzi in subparagraph 6 under this topical heading of the Preliminary Public Report has been deleted. The new subparagraph 6 shall read:

"6. Swimming pool."

NOTE: Besides the facilities mentioned in the Final Public Report under this topical heading, the Lessor and Lessee (fee simple owner and the Developer, respectively), jointly or severally, reserve the right to construct the jacuzzi at a future date to be a part of the common elements of the project and of the subsequent development or developments to be constructed on the parcel of land immediately north of the project.

OWNERSHIP OF TITLE: A preliminary title report dated June 1, 1982, issued by Security Title Corporation, indicates that William A. Jorgensen, husband of Tove K. Jorgensen, is the fee simple owner of the property to be committed to the regime. By Master Lease dated August 27, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15469 on Page 615, said fee simple owner and his previous co-owner, Tove K. Jorgensen, have leased said land to the Developer. Said Lease is still in effect.

ENCUMBRANCES AGAINST TITLE: Said preliminary title report issued by Security Title Corporation, as of June 1, 1982, certifies that the records reveal no liens or encumbrances against said title, save and except:

1. Real property taxes that are due and owing; reference is made to the Office of the Tax Assessor, Second Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent Nos. 415, 4591, 7491, 2153.
3. Reservations and covenant contained in Land Patent Grant Number S-14,686, to-wit:

"Reserving to the State of Hawaii, its successors and assigns, in perpetuity, all minerals and surface and ground waters appurtenant to the land described, together with the right to enter, sever, prospect for, mine and remove such minerals by deep mining, strip mining, drilling and any other means whatsoever, and to occupy and use so much of the surface as may be required therefor or to capture, divert or impound

water; provided, that the State shall pay just compensation to the surface owner for improvements taken as a condition precedent to the exercise of such reserved rights.

The patentee, for herself, her heirs and assigns, covenants that the use and enjoyment of the land herein granted shall not be in support of any policy which discriminates against anyone based upon race, creed, color or national origin."

4. Reservations and covenant contained in Land Patent Grant Number S-14,687, to-wit:

"Reserving to the State of Hawaii, its successors and assigns, in perpetuity, all minerals and surface and ground waters appurtenant to the land described, together with the right to enter, sever, prospect for, mine and remove such minerals by deep mining, strip mining, drilling and any other means whatsoever, and to occupy and use so much of the surface as may be required therefor or to capture, divert or impound water; provided, that the State shall pay just compensation to the surface owner for improvements taken as a condition precedent to the exercise of such reserved rights.

The patentees, for themselves, their assigns and the heirs and assigns of the survivor of them, covenant that the use and enjoyment of the land herein granted shall not be in support of any policy which discriminates against anyone based upon race, creed, color or national origin."

5. As to portion covered by Royal Patent Number 415, Land Commission Award Number 75 to C. Crockett: Reservation contained in deed dated August 22, 1950, recorded in Liber 2388 on Page 81, to-wit:

"Pursuant to the provisions of Executive Order 9908, dated December 5, 1947, filed December 8, 1947, with the Division of the Federal Register (12 Fed. Reg. 8223, December 9, 1947), all uranium, thorium, and all other materials determined pursuant to Section 5 (B) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in Parcel No. 4 covered by this instrument are hereby reserved for the use of the United States, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made; except that, when such use results in the extraction of any such

material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such materials shall be the property of the United States Atomic Energy Commission, and the Commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits, as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction, and other services performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the Commission does not require delivery of such material to it, the reservation hereby made shall be of no further force or effect."

6. The terms and provisions of that certain Consolidation Agreement dated May 9, 1979, recorded on July 9, 1979, in the Bureau of Conveyances of the State of Hawaii in Liber 13831 on Page 197, made by and between WILLIAM A. JORGENSEN, TOVE K. JORGENSEN, JAMES E. CAIN and PRISCILLA A. CAIN, "Owner", and the COUNTY OF MAUI.
7. The terms and provisions of that certain Master Lease dated August 27, 1980, recorded on April 8, 1981 in the Bureau of Conveyances in Liber 15469 on Page 615, made by and between WILLIAM A. JORGENSEN and TOVE K. JORGENSEN, husband and wife, as "Lessor", to J & J DEVELOPMENT CO., INC., a Hawaii corporation, as "Lessee", for a term commencing on August 27, 1980, and will terminate either on the date which falls exactly thirty-six (36) months thereafter or on the date of completion of construction of the improvements (as evidenced by the issuance of Certificates of Occupancy covering all of said improvements by the appropriate agency of the County of Maui), whichever date is earlier.
8. Mortgage dated April 3, 1981, recorded on April 13, 1981 in the Bureau of Conveyances in Liber 15477 on Page 218, made by J & J Development Co., Inc., a Hawaii corporation, and William A. Jorgensen and Tove K. Jorgensen, husband and wife, as Mortgagor(s), to Bank of Hawaii, a Hawaii banking corporation, as Mortgagee(s), to secure the repayment of the sum of \$3,040,000.00, 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. (also affects other property)

9. Mortgage dated November 3, 1980, recorded on November 12, 1980 in the Bureau of Conveyances in Liber 15132 on Page 438, made by William A. Jorgensen and Tove K. Jorgensen, husband and wife, as Mortgagor(s), to Bancorp Finance of Hawaii, Inc., a Hawaii corporation, as Mortgagee(s), to secure the repayment of the sum of \$1,000,000.00, 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. (also affects other property)
10. Undated Financing Statement covering certain fixtures located on the real property, given as security by William A. Jorgensen and Tove K. Jorgensen in favor of Bancorp Finance of Hawaii, Inc., recorded on November 12, 1980 in the Bureau of Conveyances in Liber 15132 on Page 462. (also affects other property)
11. Mortgage dated April 3, 1981, recorded on April 8, 1981 in the Bureau of Conveyances in Liber 15469 on Page 643, made by J & J Development Co., Inc., a Hawaii corporation, as Mortgagor(s), to Bancorp Finance of Hawaii, Inc., a Hawaii corporation, as Mortgagee(s), to secure the repayment of the sum of \$1,000,000.00, 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.

By instrument dated March 7, 1981, recorded on April 13, 1981 in the Bureau of Conveyances in Liber 15477 on Page 247, the foregoing mortgages and Financing Statement (item nos. 9, 10 and 11) were subordinated to that certain mortgage referred to as encumbrance no. 8.

12. Undated Financing Statement covering certain fixtures located on the real property, given as security by J & J Development Co., Inc. in favor of Bank of Hawaii, recorded on April 13, 1981 in the Bureau of Conveyances in Liber 15477 on Page 254.
13. Undated Financing Statement covering certain fixtures located on the real property, given as security by William A. and Tove K. Jorgensen in favor of Bank of Hawaii, recorded on April 13, 1981 in the Bureau of Conveyances in Liber 15477 on Page 257. (also affects other property)
14. The covenants, agreements, obligations, conditions and other provisions set forth in that certain Declaration of Horizontal Property Regime of Hale Kahekili dated August 27, 1980, recorded on July 7, 1981 in the Bureau of Conveyances of the State of Hawaii in Liber 15676 on Page 172, and the By-Laws attached thereto.

By instrument dated August 28, 1981, recorded on September 1, 1981 in the Bureau of Conveyances in Liber 15789 on Page 796, the foregoing Declaration was amended.

By instrument dated May 13, 1982, recorded on June 1, 1982, in the Bureau of Conveyances in Liber 16374 on Page 782, the foregoing Declaration was further amended.

15. Condominium File Plan No. 813, filed in the Bureau of Conveyances on July 7, 1981, as amended.
16. Grant dated November 16, 1981, recorded on December 18, 1981, in the Bureau of Conveyances in Liber 16049 on Page 650, in favor of Maui Electric Company, Limited, a Hawaii corporation, and Hawaiian Telephone Company, a Hawaii corporation, granting a perpetual right and easement for utility purposes over, across, through and under a portion of the premises described in said Declaration.

PURCHASE MONEY HANDLING: A copy of a newly executed Escrow Agreement dated February 23, 1982, between Bank of Hawaii, as Escrow, and the Developer has been filed with the Commission. On examination, the executed Escrow Agreement filed with the Commission is found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly Sections 514A-37, 514A-39, 514A-40 and 514A-63 through 514A-66 thereof. The Escrow Agreement provides in part:

1. Buyers who have executed Agreements of Sale shall not be entitled to a return of any funds paid thereunder. As regards any Buyer who shall have executed a Sales Contract but not an Agreement of Sale, that Buyer shall be entitled to a return of his funds, without interest and less Escrow's cancellation fee and any deductions allowed by the Buyer's Sales Contract and this Agreement, only if the Buyer shall give Escrow a written request for the return of his funds and if either of the following shall have occurred:
 - (a) Escrow receives a written request from Developer and Interim Construction Loan Department of Bank of Hawaii (ICLD) to return the funds of such Buyer then held hereunder by Escrow; or
 - (b) Developer notifies Escrow in writing of the Developer's exercise, with ICLD's consent, of its option to terminate, rescind or cancel the Buyer's Sales Contract pursuant to any right of termination, rescission or cancellation stated therein.

Upon the cancellation of any Sales Contract as specified above, Buyer shall pay Escrow a cancellation fee of \$35.00 to compensate it for services rendered prior to such cancellation.

2. If a Buyer fails to make any payment on or before the due date thereof, Escrow shall promptly notify the Developer and ICLD of the Buyer's default. If Developer and ICLD shall thereafter certify in writing to Escrow that the Developer has the right to and with ICLD's

consent has elected to terminate the Sales Contract and has so notified the Buyer, Escrow shall thereafter treat all funds of the Buyer paid under such Sales Contract, less Escrow's cancellation fee specified above, as funds of the Developer and not of the Buyer. Thereafter, such funds shall be held free of the escrow established by the Agreement and shall be held by Escrow for the account of the Developer, ICLD and Bancorp Finance of Hawaii, Inc., as their interests may appear, and shall be disbursed in accordance with provisions contained in the Letter of Instructions.

3. The Buyers and Developer agree, jointly and severally, to pay to Escrow on demand and to indemnify and hold Escrow harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations, and liabilities of every kind and nature suffered or incurred in connection with or arising out of this escrow (except those arising from the misconduct of Escrow) including, but not limited to, all costs and expenses incurred in the interpretation of these instructions or with respect to any interpleader proceeding, and agree that any sums payable to Escrow may be deducted from the monies held thereunder prior to any payment thereof. Amounts due Escrow thereunder may be set off against any funds otherwise payable by Escrow.

The specimen Sales Contract states that certain of its terms are subject to the terms of the Escrow Agreement, and expressly requires the Buyer to acknowledge that he has seen and examined the Escrow Agreement and accepts, agrees to and will be bound by the terms and provisions thereof, including the provisions for disbursement of Buyer's down payment funds during and for construction. The Sales Contract also provides, in part: (1) that Buyer agrees that all rights and interest of the Buyer are and shall be subject and subordinate to the lien of the mortgage made to Bank of Hawaii to finance the cost of construction of the project by Developer and of the second mortgage in favor of Bancorp Finance of Hawaii, Inc.; (2) if Buyer has defaulted on the Sales Contract, Developer may terminate said contract, at which time, Escrow shall charge a \$35.00 cancellation fee and thereafter treat all funds of such Buyer as the escrowed funds of Developer; (3) Buyer agrees that the Sales Contract is nonassignable and nontransferable by Buyer and that any such assignment and transfer shall void the Sales Contract and shall constitute a default of the Sales Contract by Buyer. Further, the Sales Contract permits the purchasers of the units to purchase on an installment basis by Agreement of Sale or in cash to obtain the Condominium Conveyance Document. The Developer has agreed to assign all Agreements of Sale to the Bank of Hawaii.

It is incumbent upon the purchaser or prospective purchaser to read with care the Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds paid into escrow are placed in trust, as well as the retention, disbursement and refund of said trust funds.

FINANCING OF THE PROJECT: The Developer's attorney has advised the Commission that the Developer has obtained a construction loan

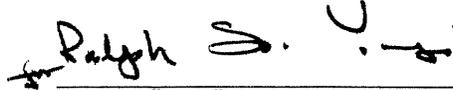
from Bank of Hawaii, the payment of which shall not be due until January 31, 1985, thereby allowing Developer to offer the sale of the apartment units by way of agreements of sale, enabling buyers of the units an opportunity to obtain long-term financing up to January 30, 1985, when the Agreements of Sale become due and payable. The Agreements of Sale shall be assigned to Bank of Hawaii as security for the construction loan.

STATUS OF PROJECT: The construction of the project has been completed as certified by a Notice of Completion filed with the Second Circuit Court on January 4, 1982.

The purchaser or prospective purchaser should be cognizant of the fact that this report represents information disclosed by the Developer in the required Notice of Intention submitted September 25, 1979, and information subsequently filed as of June 24, 1982.

This SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1180 filed with the Commission on September 25, 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 pink in color.



G. A. "RED" MORRIS, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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REGISTRATION NO. 1180

June 30, 1982