

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

THE SUNSET

Kamehameha Highway, Sunset Beach, Oahu, Hawaii

Registration No. 1224

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: February 22, 1980
Expires: March 22, 1981

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers 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 ON DECEMBER 28, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 19, 1980. 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. THE SUNSET is a proposed fee simple condominium project consisting of fifty-one (51) residential apartment units, all to be built in accordance with floor plans filed with the Real Estate Commission. The Project will contain one hundred two (102) parking spaces.
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. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt therefor from each purchaser and prospective purchaser is also the responsibility of the Developer.
3. Advertising and promotional matter has been or will shortly be submitted pursuant to the rules and regulations promulgated by the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the Condominium Map) have not been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes, and the Rules and Regulations of the Hawaii Real Estate Commission which relates to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, February 22, 1980, unless a Supplementary or Final Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE SUNSET

LOCATION: The Project is located on the makai side of Kamehameha Highway at Sunset Beach, Oahu, Hawaii and consists of approximately 9.703 acres.

TAX KEY: First Division, 5-8-06: 1, 2, 8 (portion only), 9

ZONING: R-6 and PDH District - Ordinance No. 4336

DEVELOPER: Sunset Development Company, Inc., a Hawaii corporation, whose principal place of business is Suite 201, 888 Mililani Street, Honolulu, Hawaii 96813. Telephone number 524-8133. The current officers of Sunset Development Company, Inc., are:

President

Daniel R. Matsukage

Vice President Elmer J. Muraoka
Secretary/Treasurer Elaine F. Fukuda

ATTORNEY REPRESENTING DEVELOPER: Carlsmith & Dwyer, Suite
2102, Davies Pacific Center, 841 Bishop Street, Honolulu,
Hawaii 96813 (Attention: Mitchell A. Imanaka or Charles Edward
Pear, Jr., Telephone No. 524-7200).

DESCRIPTION OF THE PROJECT:

The Developer at present is considering the development of second, third and fourth additional phases (herein the "Additional Phases" and also sometimes referred to, along with the first phase, as the "phases" or similar reference), and possible subsequent phases (herein the "Subsequent Phases") in addition to the four phases described hereinbelow. The lands within the proposed Additional Phases are depicted on the map attached hereto as Exhibit A-1, which exhibit is incorporated herein by reference. The development may take place as provided hereinbelow, but the Developer does not represent that any phase after the first phase (this Project) will be developed, nor shall the Developer be bound to develop any phase subsequent to the first phase. In the event that Developer decides to develop any Additional Phases, Developer shall have the right to develop all or any portion of those areas designated in Exhibit A-1 to the Declaration as Additional Phases, and, in the event Developer decides to develop any Additional Phase, Developer shall not be bound to develop as any such Additional Phase the entirety of any of those areas depicted in said Exhibit A-1.

(1) First Phase: The first phase (herein also referred to as "the Project") shall consist of fourteen (14) apartment buildings including three (3) remodeled buildings and eleven (11) new buildings. A total of fifty-one (51) apartments shall be included within the fourteen (14) apartment buildings. A more detailed description of the buildings and apartments in the first phase is provided hereinbelow. The first phase shall also consist of a newly constructed recreation building and a remodeled beach house.

(2) Second Phase: Developer is considering the development of a second phase consisting of up to seventeen (17) single-family dwellings. The dwelling units may be detached as depicted on the Condominium Map, or attached with a common wall. The exterior appearance and construction of the dwelling units, if constructed, will be similar to or compatible with the newly constructed apartments in the first phase. At least one (1) parking stall per apartment will be provided in the event the second phase is developed, though the same shall not necessarily be assigned to any particular apartment.

(3) Third Phase: Developer is considering the development of a third phase consisting of up to nine (9) newly constructed apartment buildings. The exterior of the nine (9) new buildings, if constructed, will be similar to or compatible in appearance and construction to the newly constructed buildings in the first phase and may contain up to

approximately thirty-six (36) apartments. At least one (1) parking stall per apartment will be provided in the event the third phase is developed, though the same shall not necessarily be assigned to any particular apartment. The third phase may contain a tennis court and a second recreation building.

(4) Fourth Phase: Developer is considering the development of a fourth phase consisting of up to eight (8) newly constructed apartment buildings. The exterior of the eight (8) buildings, if constructed, will be similar to or compatible in appearance and construction to the newly constructed buildings in the first phase and may contain up to approximately thirty-two (32) apartments. At least one (1) parking stall per apartment, though the same shall not necessarily be assigned to any particular apartment will be provided in the event the fourth phase is developed. The fourth phase may contain a tennis court and a third recreation building.

PLANS FOR THE SECOND, THIRD AND FOURTH PHASES HAVE NOT BEEN FINALIZED AND AS SUCH THE DESCRIPTIONS PROVIDED ABOVE ARE TENTATIVE IN NATURE.

A. Description of Buildings - First Phase: The first phase shall contain fourteen (14) separate apartment buildings constructed principally of wood, glass, concrete and gypsum board. There shall be four (4) different and distinct building types, designated as types I (building 1), II (building 2), III (building 3) and IV (buildings 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14). Building type I shall contain eight (8) apartments, building type II shall contain two (2) apartments, building type III shall contain eight (8) apartments, and building type IV shall contain three (3) apartments except for building number 6, which shall contain two (2) apartments and except for building number 8 which shall contain four apartments. No building exceeds three (3) stories in height and no building contains a basement.

In addition to the apartment buildings, there shall also be a recreation building which shall house a recording studio and which shall consist of three (3) stories, without basement, and contain no apartments. There shall also be a beach house building consisting of a remodeled two-story building, without basement, and which shall contain no apartments.

The apartment buildings run parallel with the shoreline and are numbered consecutively from the Mokuleia end of the Project to the Kahuku end as follows: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14. The recreation building is immediately mauka of building number 14, and the beach house building is immediately makai of building number 14.

B. Description of the Apartments - First Phase: Fifty-one (51) separate condominium apartments are designated in the space within the perimeter and party walls, windows, doors, floors and ceilings of each of the fifty-one (51) apartments (specifically including the appurtenant lanais and balconies) of the Project, distributed among the fourteen (14) apartment buildings in the Project as described above, which spaces together with appurtenant lanai and balcony air spaces are referred to herein as "apartments", and are designated on said Condominium Map and described as follows:

(1) Apartment Numbers and Locations: The apartment designations are such that the building number will precede the apartment number. Each building shall contain apartments numbered from one (1) to the number of the total number of apartments in said building, and the numbering of the apartments shall not run consecutively between the separate buildings. Building number one (1) shall contain apartments number 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7 and 1.8. Building number two (2) shall contain apartments number 2.1 and 2.2. Building number three (3) shall contain apartments number 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7 and 3.8. Building number four (4) shall contain apartments number 4.1, 4.2 and 4.3. Building number five (5) shall contain apartments number 5.1, 5.2, and 5.3. Building number six (6) shall contain apartments number 6.1 and 6.2. Building number seven (7) shall contain apartments number 7.1, 7.2 and 7.3. Building number eight (8) shall contain apartments number 8.1, 8.2, 8.3 and 8.4. Building number nine (9) shall contain apartments number 9.1, 9.2 and 9.3. Building number ten (10) shall contain apartments number 10.1, 10.2 and 10.3. Building number eleven (11) shall contain apartments number 11.1, 11.2 and 11.3. Building number twelve (12) shall contain apartments number 12.1, 12.2 and 12.3. Building number thirteen (13) shall contain apartments number 13.1, 13.2 and 13.3. Building number fourteen (14) shall contain apartments number 14.1, 14.2 and 14.3.

(2) Layout and Area of Individual Apartments: The apartments are constructed according to basically twelve (12) different floor plans, designated A, B, C, D, E, F, G, H, I, J, K and L. All apartment types shall consist of a living/dining area. Apartment types E, F, G, K and L shall have kitchens and all other apartment types shall have a kitchen/bar combination. Apartment types A, B, C, D, E, F, G, K and L shall have garden areas. All garden areas shall be limited common elements appurtenant to their respective apartments. Apartment types C, H, J, K and L shall have den/alcove/study areas, and apartment type D shall have a den area which may also be used as an additional bedroom. Apartment types A and C shall have dressing areas adjoining the bedroom. Apartment types A, B, C, and D shall have balconies and planters. Apartment types A, C and D shall have lofts; and apartment types B and C shall have vestibule areas.

Other distinguishing characteristics between the apartments are as follows:

<u>Designation</u>	<u>Apartment Numbers</u>	<u>Bedrm</u>	<u>Bath</u>	<u>No. of Levels</u>	<u>Total Unit Area (including lanais)</u>
A	4.2, 5.2, 7.3, 8.2, 8.4, 9.1, 10.2, 11.1, 12.2, 13.1, 14.2	1	1-1/2	3	1,425

B	4.1, 5.1, 7.2, 8.1, 8.3, 9.2, 10.1, 11.2, 12.1, 13.2, 14.1	1	1-1/2	2	961
C	6.1, 6.2, 9.3, 11.3 13.3	1	2-1/2	3	2,417
D	4.3, 5.3, 7.1, 10.3, 12.3, 14.3	2 or 3	3	3	2,417
E	1.3, 1.5, 3.1, 3.3, 3.5	1	1	1	825
F	1.1, 3.7	1	1	1	1,250
G	1.7	1	1	1	950
H	1.4, 1.6, 3.2, 3.4, 3.6	1	2	2	1,215
I	1.8	1	2	2	1,105
J	1.2, 3.8	1	2	2	1,325
K	2.1	1	2	2	1,695
L	2.2	1	2	2	1,590

NOTE: The approximate floor areas of each apartment as set forth above are net floor areas and as such do not include the walls and partitions within the perimeter of the apartment, and do not include any perimeter party or non-party walls. The areas shown above are approximate only, and the actual apartment areas are likely to vary somewhat.

(3) Access to Common Elements: Each apartment has immediate access to the grounds of the Project or to a walkway or stairway leading to the grounds of the Project.

(4) Other Data Identifying and Defining the Apartments: The respective apartments shall not be deemed to include the perimeter or party walls or the undecorated or unfinished surfaces thereof; the exterior surfaces of all party walls, doors, door frames, windows and window frames; the awnings (if any); interior load-bearing walls, the floor and ceilings surrounding each apartment; any pipes, wires, conduits or other utility or service lines which are utilized for or serve more than one apartment; all of the foregoing being common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls; the inner decorated or finished surfaces of all walls, floors, ceilings, doors and door frames, windows and window frames, any interior staircases; the lanai air space, and all fixtures originally installed in the apartment.

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

- (1) Said land in fee simple;
- (2) All structural components, such as foundations, girders, beams, supports, main walls, roofs, halls, corridors, exterior stairs, stairways, entrances, exits, floor slabs, unfinished perimeter, party and load-bearing walls, and walkways of said buildings;
- (3) All common spaces such as yards, gardens, planting areas, swimming pools, the tot-lot, trash collection areas, all parking areas, driveways and access lanes;
- (4) All common premises for the use of janitors, resident managers(s), or other persons employed for operation of the Project, if any;
- (5) Installations for services such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central appurtenant transmission facilities and installations over, under or across the Project which serve more than one apartment for services such as power, light, gas, hot water, cold water, incineration, sewage, telephone and television signal distribution, if any;
- (6) Any apparatus and installations existing for common use, such as tanks, pumps, meters, fans, compressors, ducts, vents, the sewage treatment plant and other such installations and apparatus;
- (7) The beach house building and the recreation building;
- (8) All other parts of the Project necessary or convenient to its existence, maintenance, and safety, or normally in common use;

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called "limited common elements" are hereby designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

- (1) Each apartment shall have for its exclusive use the mailbox bearing the same number as such apartment.
- (2) The garden areas designated as being adjacent to apartment numbers 1.1, 1.3, 1.5, 1.7, 3.1, 3.3, 3.5, 3.7, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 6.1, 6.2, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.4, 9.1, 9.2, 9.3, 10.1, 10.2, 10.3, 11.1, 11.2, 11.3, 12.1, 12.2, 12.3, 13.1, 13.2, 13.3, 14.1, 14.2 and 14.3 shall be appurtenant limited common elements to the respective apartments. The Developer hereby expressly reserves the right to redesign any and all garden areas appurtenant to the respective apartments, including, without limitation the right to realign the boundaries of said garden areas.

(3) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited common elements appurtenant to the apartments to which they are so related.

COMMON INTEREST: Each apartment in the first phase shall have appurtenant thereto an undivided percentage interest in all common elements of the Project (herein called the "common interest"), and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting, as follows:

<u>Type</u>	<u>Apartment Numbers</u>	<u>Percentage Common Interest</u>
A	4.2, 5.2, 7.3, 8.2, 8.4, 9.1, 10.2, 11.1, 12.2, 13.1, 14.2	1.93817
B	4.1, 5.1, 7.2, 8.1, 8.3, 9.2, 10.1, 11.2, 12.1, 13.2, 14.1	1.30707
C	6.1, 6.2, 9.3, 11.3, 13.3	3.28741
D	4.3, 5.3, 7.1, 10.3, 12.3, 14.3	3.28741
E	1.3, 1.5, 3.1, 3.3, 3.5	1.12209
F	1.1, 3.7	1.70015
G	1.7	1.29211
H	1.4, 1.6, 3.2, 3.4, 3.6	1.65255
I	1.8	1.50293
J	1.2, 3.8	1.80216
K	2.1	2.30540
L	2.2	2.16259

EASEMENTS: The apartments and common elements, including limited common elements, shall have and be subject to the following easements:

(1) Each apartment shall have appurtenant thereto non-exclusive easements in common elements designed for such purposes as ingress to, egress from, utility services for and support, maintenance and repair of such apartment, and shall also have the right to use the other common elements (subject, however, to the exclusive or limited use of the limited common elements) in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners.

(2) In the case of minor encroachments of common elements upon any apartment or limited common elements, or in the case of minor encroachments of limited common elements or any apartment upon the common elements or any other apartments or limited common elements, a valid easement for such encroachment and maintenance thereof shall and does exist for so long as such encroachment continues. In the event any building of the Project be partially or totally destroyed and then rebuilt, or in the event of any shifting, settlement or movement of any portion of the Project, minor encroachments upon any part of the common elements or apartment or limited common elements due to the same shall be permitted, and a valid easement for such encroachment and the maintenance thereof shall and does exist for so long as such encroachment continues.

(3) The apartment owners shall have the irrevocable right, to be exercised by the Board of Directors, to have access to each apartment and any limited common element from time to time during reasonable hours as may be necessary for the operation of the Project or at any time for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

(4) With respect to the marketing of each newly constructed phase, the Developer shall have the right to conduct extensive sales activities in the Project, including the use of model apartments, sales, and management offices, and extensive sales displays and activities until the earlier to occur of (a) forty-eight (48) months from the date of the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the first apartment deed conveying an apartment in the newly constructed phase, or (b) the closing of the sale of the last unsold apartment in said phase. In the event that the Developer is unable to sell all of the apartments within the forty-eight (48) month period, the Developer shall have the right to conduct sales activities in the Project until the closing of the sale of the last unsold apartment in the Project provided that such sales activities are conducted in an unobstrusive manner which will not unreasonably interfere with the use, possession and aesthetic enjoyment of the Project by the other apartment owners. In the event that the Developer's mortgage lender or any successor to or assignee of the Developer's mortgage lender shall acquire any portion of the Project in the course of any foreclosure or other legal proceeding or by an assignment in lieu of foreclosure, such mortgage lender, its successors and assigns shall have the right to conduct such extensive sales activities in the Project until at least ninety-five percent (95%) of all of the apartments have been sold and filed, notwithstanding the foregoing.

(5) With respect to each newly constructed phase, the Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon the Project as may be reasonably necessary for the completion of improvements to and correction of defects in the Project. Such easement shall terminate twenty-four (24) months after the later of (i) the date of the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the first apartment deed, or (ii) "substantial completion" (as that term is used in Chapter 507, Part II, Hawaii Revised

Statutes) of the improvement to be completed or corrected. Such period shall be extended for such additional period (not to exceed twenty-four (24) months) as may be reasonably necessary for the completion of such improvements in the exercise of due diligence or such additional period as may become necessary if such completion is delayed by reason of force majeure.

(6) Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over, under and upon the Project or any portion thereof, to create and cause noise, dust and other nuisances created by and resulting from any work connected with or incidental to the development, construction or sale of any apartments or other improvements in any Additional or Subsequent Phase.

PURPOSES OF BUILDING AND RESTRICTIONS ON USE OF BUILDINGS AND INDIVIDUAL APARTMENTS: Except when the holder of the first mortgage on an apartment has entered into possession of the apartment following (i) a default under its first mortgage, (ii) a foreclosure proceeding, or (iii) a conveyance in lieu of foreclosure, the apartment shall be occupied and used only as "residential dwellings", but such apartments may be leased or rented from time to time to transients. The Association shall have the power to enact resolutions, rules and regulations, and shall have the power to amend and repeal the same from time to time, reasonably restricting and regulating the use of the apartments and the common elements; provided, that any such resolutions, rules or regulations shall be consistent with the terms of the Declaration, and the By-Laws.

The owners of the respective apartments shall have the absolute right to sell, lease, rent or otherwise transfer such apartments subject to all provisions of the Horizontal Property Act, the Declaration and the By-Laws attached thereto; provided, however, that no apartment owner may sell, lease, rent or otherwise transfer less than the entire apartment.

No apartment owner shall use his apartment or appurtenant limited common elements for any purpose which will injure the reputation of the Project, or suffer anything to be done or kept in his apartment or elsewhere in the Project which will (a) jeopardize the soundness of the Project, or (b) interfere with or unreasonably disturb the rights of other owners and occupants, or (c) reduce the value of the Project, or (d) increase the rate (unless such owner pays such increase) or result in the cancellation of fire insurance on the apartments or the contents thereof.

The proposed House Rules provide in part that occupancy is limited to not more than two persons per bedroom contained in each apartment, excluding children under the age of five, except that in no event and under no circumstances shall the number of occupants per bedroom contained in each apartment exceed three per bedroom, inclusive of children under the age of five.

OWNERSHIP OF TITLE: The Preliminary Title Report issued by Title Guaranty of Hawaii, Incorporated, dated November 19, 1979 reflects that fee simple title to the land is held in the names of Real Estate Finance Corporation (as to lots 190, 191 and

451); Norfolk Investment Co., Ltd. (as to lots 184A, 184B and 1); Lawrence Kon Len Lai (as to lot 195); and Max Sung Hi Lim and Lily Sook Myeng Lim (as to lot 196). Since the issuance of the Preliminary Title Report, the Developer reports that it has ownership of interests in the various lots which comprise the project as follows: As to lots 1, 184A, 184B, 190, 191 and 451, the Developer owns said lots in fee simple; As to lot 195, Developer is the assignee of that certain unrecorded Agreement of Sale dated October 31, 1977, executed by and between Lawrence Kon Len Lai as the Seller and Thomas Francis III and Sue Anne Francis, husband and wife, as the Purchaser; As to lot 196, Developer is the assignee of that certain unrecorded Agreement of Sale dated October 1, 1979, executed by and between Max Sung Hi Lim and Lily Sook Myeng Lim, husband and wife, as Seller and Robert Leon Hofmann as Purchaser.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report issued by Title Guaranty of Hawaii, Incorporated, dated November 19, 1979, states that title to the land is subject to the following encumbrances:

1. Real property taxes which are now a lien but not yet due and payable.
2. A perpetual easement for road purposes across Lot 193, as an appurtenance to Lot 185 of Application No. 1095, to be used in common with others so entitled, as granted in deed dated November 19, 1941 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 61507.
3. A perpetual right of way across Lots 191 and 193, as reserved in deed dated November 30, 1945 and filed as Document No. 82464.
4. Designation of Easement 112 (2839 square feet) located over and across the northeasterly (side) portion of Lot 190, as shown on Map 86, as set forth by Land Court Order No. 51187, filed September 14, 1978.
5. Designation of Easements 113 and 114 located over and across Lot 451, and Easement 115 located over the northerly portion of Lot 191, and Easement 116 located over the northerly portion of Lot 190, as shown on Map 87, as set forth by Land Court Order No. 51188, filed September 14, 1978. Above Easement 113 granted to the City and County of Honolulu, for water pipeline purposes, dated October 16, 1978 and filed as Document No. 910347. Consent by Pacific Standard Life Insurance Company, dated October 30, 1978 and filed as Document No. 910348.
6. A grant in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, granting easement over Roadway Lot 193, dated December 24, 1957 and filed as Document No. 232767.
7. A grant across Lot 451, in favor of Hawaiian Electric Company, Inc., dated June 14, 1977 and filed as Document No. 830519.

8. As to Lots 190, 191, and 451, mortgage dated December 14, 1973 by and between Real Estate Finance Corporation, A Hawaii Corporation, Mortgagor; and Pacific Standard Life Insurance Company, An Arizona Corporation, Mortgagee; filed as Land Court Document No. 661161.

9. As to Lots 190, 191, and 451, purchase money mortgage dated December 29, 1976 by and between Harold Fujiwara, husband of Marjorie Fujiwara, and Daniel Matsukage, husband of Nobuko Matsukage, Mortgagor; and Pacific Standard Life Insurance Company, An Arizona Corporation, Mortgagee; filed as Land Court Document No. 798968.

10. As to Lots 190, 191, and 451, Additional Charge Mortgage to the above Mortgage Document No. 798968; dated June 14, 1977 by and between Harold Fujiwara, husband or Marjorie Fujiwara, and Daniel Matsukage, husband of Nobuko Matsukage, Mortgagor; and Pacific Standard Life Insurance Company, An Arizona Corporation, Mortgagee, filed as Land Court Document No. 829988.

11. As to Lots 184-A and 184B:

(a) To the location of the seaward boundary in accordance with the laws of the State of Hawaii, and the shoreline setback line in accordance with county regulation and/or ordinance.

(b) The conditions as set forth in exchange deed made by William Kolo Rathburn, whose wife's name is Katharine Rathburn, to trustees under the will and the estate of James Campbell, deceased, dated December 16, 1938 and filed as Land Court Document No. 46215, also recorded in the Bureau of Conveyances of the State of Hawaii in Liber 1475, Page 339.

(c) A right of way in common with others so entitled over and across Trail Easement 22, as shown on Map 15.

(d) A perpetual right of way for roadway purposes on and over Lot 184-B for access to and from the ocean, as granted in deed made by William Kolo Rathburn to Betty Nonaka Rathburn, dated November 30, 1945 and filed as Document No. 82464.

12. As to Lot 1:

(a) A reservation in favor of the Hawaiian Government of all mineral or metallic mines of every description.

(b) Easement "A" (807 square feet) in favor of Lawrence K. L. Lai and Bertha C. Lai, his wife, Mabel Shim Ching, William T. Lee Kwai and Ellen C. Lee Kwai, his wife, and Edward Akima and Helen W. Akima, his wife, and Easement "B" (810 square feet) in favor of Sayda Boyman Hoogs, being rights of way twenty (20) feet wide for road and utility purposes, as shown on Map 1 of Land Court Application No. 1648.

13. Notice of Pendency of Action dated December 5, 1972 by and between Max S. H. Lim and Lily S. M. Lim, Plaintiff; and Sayda B. Hoogs, also known as Sayda Boyman Hoogs, Defendant filed in the First Circuit, State of Hawaii, Civil No. 38176 on

December 5, 1972; also filed as Land Court Document No. 611022 on December 18, 1972. Action for specific performance of real estate contract on Lots 184-A, 184-B, and right of way, and Lot 1.

14. As to Lots 184-A, 184-B and Lot 1, the reservation as set forth in deed made by Evan Clair Hoogs, unmarried, to Norfolk Investment Co., Ltd., a Hawaii Corporation, dated September 22, 1979 and filed as Document No. 969526, to which reference is hereby made.

15. As to Lot 195, to the location of the seaward boundary in accordance with the laws of the State of Hawaii, and the shoreline setback line in accordance with county regulation and/or ordinance.

16. As to Lot 195, the conditions as set forth in exchange deed dated December 16, 1938 and filed as Land Court Document No. 46215, also recorded in Liber 1475, Page 339, made by the trustees under the will and of the estate of James Campbell, deceased, to William Kolo Rathburn.

17. A right of way, in common with others so entitled, on, over and across Trail Easement 22, as shown on Map 15, located along the easterly boundary of Lot 195.

18. A grant in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, granting easement for utility purposes over and across Lots 195 and 199, dated December 24, 1957 and filed as Document No. 232767.

19. Agreement of sale dated October 31, 1977 by and between Lawrence Kon Len Lai, unmarried, Vendor; and Thomas Francis, III and Sue Anne Francis, husband and wife, Vendee; filed as Land Court Document No. 844008.

20. As to Lot 196, to the location of the seaward boundary in accordance with the laws of the State of Hawaii, and the shoreline setback line in accordance with county regulation and/or ordinance.

21. As to Lot 196, the condition as set forth in Exchange Deed dated December 16, 1938 and filed as Land Court Document No. 46215, also recorded in Liber 1475, Page 339.

22. As to Lot 196, a right of way, in common with others so entitled, on, over and across Trail Easement 22 as shown on said Map 15.

23. A grant in favor of Hawaiian Electric Company Inc. and Hawaiian Telephone Company, granting easement for utility purposes over Lot 199, dated December 24, 1957 and filed as Document No. 232767.

24. As to Lot 196, a mortgage dated June 22, 1973 by and between Max Sung Hi Lim and Lily Soiok Myeng Lim, husband and wife, Mortgagor; and Pioneer Federal Savings and Loan Association, now known as Pioneer Federal Savings and Loan Association of Hawaii, Mortgagee; filed as Land Court Document No. 635831.

25. As to Lot 196, a mortgage dated May 23, 1974 by and between Max Sung Hi Lim and Lily Sook Myeng Lim, husband and wife, Mortgagor; and Finance Factors, Limited, A Hawaii Corporation, Mortgagee; filed as Land Court Document No. 682823.

26. As to Lot 196, a mortgage dated December 27, 1974 by and between Max Sung Hi Lim and Lily Sook Myeng Lim, husband and wife, Mortgagor; and Finance Factors Limited, A Hawaii Corporation, Mortgagee; filed as Land Court Document No. 706660.

27. As to Lot 196, a Lis Pendens, filed in Bankruptcy Nos. 76-0474 and 76-0475, in the United States District Court for the District of Hawaii, dated January 26, 1977 and filed as Land Court Document No. 802716, in favor of Harold H. Ohama, trustee for Max Sung Hi Lim and Lily Sook Myeng Lim, re. claims an interest in the within premises.

28. As to Lot 196, Agreement of Sale dated October 4, 1979 by and between Ralph S. Aoki, trustee in the matter of Max Sung Hi Lim and Lily Sook Myeng Lim, debtors, United States District Court for the District of Hawaii, in proceedings for a real property arrangement, Bankruptcy Nos. 76-0474 and 0475, Vendor; and Robert Leon Hofmann, aka Robert Hofmann, husband of Alyssa Fawn Hofmann, Vendee; filed as Land Court Document No. 972053.

PURCHASE MONEY HANDLING: A specimen Condominium Reservation Agreement, Deposit Receipt and Sales Agreement (hereinafter called "Reservation and Sales Agreement") and the Escrow Agreement have been submitted to the Real Estate Commission as part of the registration. The Escrow Agreement dated December 20, 1979 identified Real Estate Finance Corporation Escrow as the escrow agent. Upon examination, the specimen Reservation and Sales Agreement and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly with Sections 514A-40, 514A-39 and 514A-63 through 514A-67. The provisions of the Reservation and Sales Agreement and the Escrow Agreement should be carefully read by the purchasers. The specimen Reservation and Sales Agreement filed as part of the registration recites the conditions under which the purchaser acknowledges receipt of the Public Report.

The seller has advised the Real Estate Commission that, to the extent practicable to do so, the seller may use purchaser's funds and proceeds from the sale of the apartments to pay the development and construction costs of the project, as permitted by Hawaii Revised Statutes Section 514A-67 and 514A-40. The purchaser should therefore take particular care in examining the specimen Reservation and Sales Agreement and should be particularly aware that, at the seller's option, the purchaser may have to pay the full purchase price and accept an apartment deed for the apartment prior to completion of construction of the Project. THE SPECIMEN RESERVATION AND SALES AGREEMENT CONTAINS A NUMBER OF PROVISIONS DIRECTED AT FACTORS INVOLVED IN CLOSING THE SALE OF THE APARTMENTS PRIOR TO COMPLETION OF CONSTRUCTION, INCLUDING PROVISIONS THAT: 1) RISK OF LOSS SHALL PASS FROM SELLER TO PURCHASER UPON FILING OF THE APARTMENT DEED AND RISK OF DAMAGE DUE TO DELAY OF COMPLETION OF PERFORMANCE SHALL BE BORNE BY PURCHASER, 2) ALL INTEREST EARNED ON PROCEEDS OF THE SALE OF APARTMENTS SHALL BE THE PROPERTY OF THE SELLER, 3) PURCHASER APPOINTS SELLER AS PURCHASER'S PROXY FOR THE

PURPOSE OF CONDUCTING THE AFFAIRS OF THE ASSOCIATION OF APARTMENT OWNERS UNTIL DELIVERY OF POSSESSION OF THE APARTMENT TO PURCHASER AFTER COMPLETION THEREOF, 4) PURCHASER GRANTS SELLER AN IRREVOCABLE POWER OF ATTORNEY TO DO EVERYTHING NECESSARY OR APPROPRIATE TO COMPLETE THE PROJECT, INCLUDING THE POWER TO DEAL WITH ALL CONTRACTORS, BONDING COMPANIES, INSURERS AND PUBLIC AUTHORITIES AND THE RIGHT TO CHANGE THE PROJECT AS NECESSARY OR APPROPRIATE, 5) PURCHASER AND SELLER CONTRACTUALLY ALLOCATE TO SELLER THE RIGHT TO DO ALL ACTS NECESSARY OR APPROPRIATE TO COMPLETE THE PROJECT, AND 6) IF THE SELLER SHALL DEFAULT UNDER THE RESERVATION AND SALES AGREEMENT OR IF THE APARTMENT AS ACTUALLY BUILT DIFFERS MATERIALLY FROM THE APARTMENT AS REPRESENTED, THE PURCHASER'S ONLY REMEDY SHALL BE A REFUND TO PURCHASER OF ALL SUMS PAID PLUS AN AMOUNT EQUAL TO THE SUM OF THE ALL REAL PROPERTY TAXES ACTUALLY PAID, MORTGAGE INTEREST ACTUALLY PAID, PLUS SIX (6) PERCENT PER ANNUM INTEREST ON THE BALANCE OF THE PURCHASE PRICE NOT FINANCED BY A MORTGAGE.

Among other provisions, the Escrow Agreement provides 1) that purchaser's funds and proceeds from the sale of apartments may be disbursed (prior to completion of construction of the Project) to pay for construction costs in proportion to the valuation of the work completed and that proceeds from the sale of apartments may be disbursed (prior to completion of construction of the Project) to pay for architectural, engineering, finance and legal fees and for other incidental expenses of the Project, and 2) that the purchaser shall be entitled to a refund of his funds only if (a) seller asks Escrow to refund the purchaser's funds or (b) seller gives notice to Escrow of seller's rescission of the Reservation and Sales Agreement or (c) the conditions provided in Sections 514A-63, 514A-64 or 514A-66 of the Horizontal Property Act (as amended on the date the Reservation and Sales Agreement becomes binding and effective) have been met and written notice thereof has been provided to the seller.

Among other provisions, the specimen Reservation and Sales Agreement provides that:

(1) Reservation and Sales Agreements executed prior to the issuance of a Final Public Report for the Project shall constitute a "reservation" and not a "binding contract" for the purchase of an apartment. Accordingly, the reservation may be cancelled and terminated at any time at the option of either party (and purchaser shall receive a refund) until such time as the purchaser and seller execute an affirmation instrument agreeing to render the Reservation and Sales Agreement a binding contract. Therefore, the purchaser shall be aware that the execution of a Reservation and Sales Agreement prior to the issuance of a Final Public Report does not necessarily mean that the purchaser will be able to purchase the apartment reserved for the price stated or on the other terms stated in the Reservation and Sales Agreement, or on any terms at all.

(2) It is the seller's desire that the contractor's warranty be passed on for the purchaser's benefit. The seller makes no warranties, express or implied, with respect to the apartments, the project, or consumer products or other things installed therein, including warranties of merchantability, habitability, workmanlike construction, or fitness for a particular purpose. The seller does, however, agree to attempt

to pass through to the purchaser the benefit of the general contractor's warranties, if any, and also the unexpired term, if any, of any assignable manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances in the apartment.

(3) The seller may cancel the Reservation and Sales Agreement and hold the purchaser in default if any material discrepancies are discovered between the financial information furnished by the purchaser and the purchaser's actual financial status. Seller may also cancel if the purchaser's application or eligibility for a mortgage loan is rejected or not given unqualified approval within sixty (60) days after application. If purchaser proposes to pay the purchase price in cash and seller, in its sole discretion, after reviewing the written evidence submitted to it by purchaser, determines that seller is not satisfied as to purchaser's ability to make such cash payments, then seller may cancel the Reservation and Sales Agreement. Seller may also cancel the Reservation and Sales Agreement if the purchaser should die.

(4) The seller's interim mortgage loan (and any modifications, renewals and extensions thereof) used for acquiring the land, constructing the Project, and associated costs shall be and remain at all times a lien or charge on the Project, including the individual apartments, prior to and superior to any and all other liens or charges on the Project until the final closing and delivery of the purchaser's apartment deed, and purchasers intentionally waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest they may have under the Reservation and Sales Agreement in favor of the lien or charge on the Project of the security interest of the lender until the final closing and delivery of the purchaser's apartment deed. The purchasers also consent to seller's assignment by way of security of seller's interest in the Reservation and Sales Agreement and purchaser's escrow deposits to the lender. The purchasers also irrevocably appoint the Managing Agent to receive and accept service of process on behalf of the purchasers.

(5) The seller has made no representations with respect to the possibility or probability of rental or other income from the apartment or other economical benefits to be derived from the rental of the apartment, including but not limited to, any representations to the effect that seller or the Managing Agent of the Project or a third party will provide services relating to the rental or sale of the apartment nor representations as to possible advantages from the rental of the apartment under federal or state tax laws. If purchaser wishes to rent the apartment to third persons, purchaser must make his own arrangements.

(6) The purchaser will pay all closing costs, including but not limited to, the escrow fee, conveyance taxes, all acknowledgment fees, all appraisal fees, all filing costs, charges for purchaser's credit report, cost for drafting of the mortgage and notes, and any assignment thereof, and costs of any title insurance. All applicable mortgage costs shall be paid by purchaser, and purchaser shall pay the nonrefundable start-up fee for commencement of the operations of the Project

by the Managing Agent and the Association of Apartment Owners. Real property taxes, maintenance costs and other prorations shall be made, and risk of loss shall transfer from seller to purchaser on the scheduled Closing Date as defined in the specimen Reservation Sales Agreement except that real property taxes and maintenance fees shall in no event be assessed to the purchaser prior to the issuance of a temporary or permanent certificate of occupancy. Purchaser shall execute all documents necessary for closing and deposit with escrow all funds other than proceeds of purchaser's first mortgage loan within ten (10) days after receiving written notice to pre-close. Pre-closing may commence at any time after the effective date of the Reservation and Sales Agreement and may commence substantially prior to the issuance of a temporary or permanent certificate of occupancy.

(7) In the event development and construction of the project is delayed due to governmental restrictions or regulations enacted after the date of the Reservation and Sales Agreement, or by occurrence of a contingency, the non-occurrence of which was a basic assumption upon which said Agreement was made, and seller determines that increases in development and construction costs because of such delay require increases in sales prices to maintain financial feasibility of the project, then and in any such event, and provided the sale of the apartment has not finally closed and the apartment deed has not been filed, seller may increase the total purchase price described in said Reservation and Sales Agreement only to the extent necessitated by said increases in development and construction costs and seller shall notify purchaser in writing of any such increase in the total purchase price. After receipt of such notice, purchaser shall have fifteen (15) days within which to affirm or terminate said Agreement. If, within said fifteen day period, purchaser does not notify seller in writing that purchaser elects to terminate said Agreement, purchaser shall be deemed to have affirmed said Agreement at the increased purchase price. If purchaser elects to terminate said Agreement, seller shall cause escrow to refund to purchaser all deposits made pursuant hereto, without interest and less any escrow cancellation fee, and seller may then offer said apartment to other prospective purchasers.

It is incumbent upon purchasers and prospective purchasers that they read with care the specimen Reservation and Sales Agreement and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of the condominium apartments are placed in trust, as well as the retention and disbursement of funds.

MANAGEMENT AND OPERATION: The proposed By-Laws provide that the operation of the Project shall be conducted for the Association of Apartment Owners by a responsible corporate managing agent; and a responsible corporation registered to do business in Hawaii or individual as recording studio manager. The managing agent and recording studio manager shall be appointed by the Association, in accordance with the By-Laws, except that the managing agent and recording studio manager for the initial period following the date of the organization of the Association of Apartment Owners may be appointed by the Developer without necessity of confirmation by the

Association. The initial managing agent and recording studio manager have not as yet been finally selected.

MERGER AND CONSEQUENCES OF MERGER: At any time or times prior to December 31, 1990, Developer, without being required to obtain the joinder or consent of any apartment owner, lien holder, or other person, reserves the right to merge any or all of the above-described phases as though they had been developed as a single project. Developer may effect said merger in one of two ways as provided hereinbelow:

(1) Merger by Amendment. Each such merger or mergers shall take effect upon the filing of an as-built certificate for the newly constructed phase and upon the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the following documents:

(a) An Amendment to the Declaration merging the phases and setting forth at least: (i) a description of the land on which the buildings and improvements are or are to be located, (ii) a description of the additional buildings, stating the number of stories and basements, the number of apartments and the principal materials used in the construction thereof, (iii) the apartment number of each apartment, and a statement of its location, approximate area, number of rooms, immediate common elements to which it has access, designated parking stall if considered a limited common element, and any other data necessary for its proper identification, (iv) a description of any additional common elements, (v) a description of any additional or newly designated limited common elements, if any, stating to which apartment their use is reserved, (vi) the undivided percentage interest appurtenant to each apartment in the merged phases, (vii) any easements relevant to the merged phases not already provided for in the Declaration, (viii) a statement of the purposes for which the buildings and each of the apartments are intended and restricted as to use, if different from the provisions in said Declaration, and (ix) such other matters as the Developer deems necessary or appropriate to effectuate the merger of the phases and/or the operation of the Project as a single condominium project.

(b) An Amendment to the Condominium Map for the phases being merged to show a composite site plan for the merged phases and such additional or amended floor plans and elevations as may be necessary or appropriate, if any, together with the verified statement of a registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that said Condominium Map, as so amended, is an accurate copy of portions of the plans of the building or buildings for the new phase or phases being merged as filed with and approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings. Notwithstanding anything to the contrary hereinabove provided, if any such merger is effected prior to the "date of completion" as defined in Section 507-43, Hawaii Revised Statutes, or the date of occupancy of the projects as merged, the certification need not contain a statement by the architect or engineer that the plans fully and accurately depict the

layout, location, apartment numbers and dimensions of the apartment as built, pursuant to said Section 514A-12 of the Act; provided that upon completion and occupancy of such phase the Developer shall have the right to further amend this Declaration to file the "as built" verified statement for such phase.

(2) Merger by Declaration. At any time or times prior to December 31, 1990, Developer shall have the reserved right to effect the merger or mergers of the above-described phases, or portions thereof, by the filing of an as-built certificate for the newly constructed phase and upon the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the following documents:

(a) A Declaration of Horizontal Property Regime for the newly constructed phase in form and substance substantially identical to the Declaration for the first phase except for the description of buildings, apartment, common elements and limited common elements, and common interests appurtenant to each apartment, and such other items herein contained which are clearly repugnant to the establishment of a condominium project with respect to any Additional or Subsequent Phase; provided, however, that the terms and provisions of any such Declaration shall be consistent with the terms and provisions of the Declaration for the first phase, and in the event of conflicting provisions, the Declaration for the first phase shall control.

(b) A Condominium Map showing a site plan for the newly constructed phase and any floor plans and elevations as may be necessary or appropriate, together with a verified statement of a registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that said Condominium Map is an accurate copy of portions of the plans of the building for the newly constructed phase as filed with and approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings.

(c) An Amendment to this Declaration and the Declaration referred to in subparagraph (2)(a) above, merging the projects and setting forth at least the undivided percentage interest appurtenant to each apartment in the merged projects and such other matters as the Developer deems necessary or appropriate

(3) Developer's Rights for Effecting Merger. Developer reserves the right to modify the present plan of phased development by varying the mix and/or number of apartments in any succeeding phase; by modifying, deleting and/or adding apartment types; by modifying, deleting and/or adding types of common elements.

The Developer expressly reserves the right to so amend the aforesaid Declaration and Condominium Map at any time or times prior to December 31, 1990, notwithstanding the lease, sale or conveyance of any or all of the apartments in any of the phases being merged, and Developer may, without being required to obtain the consent or joinder of any apartment

owner, lien holder or other persons, execute and file amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers, or privileges herein reserved to the Developer. Any such action shall be deemed taken by Developer as the true and lawful attorney-in-fact of the respective apartment owners.

Each and every party acquiring an interest in the Property, by such acquisition, consents to such merger or mergers of phases, and to the amendment or amendments of the Declaration and the Condominium Map to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints the Developer his attorney-in-fact to execute such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights and shall not be affected by disability of any such party. Each and every person also acknowledges, accepts and agrees that construction and sales activity for succeeding phases may continue on the property submitted to the Declaration after he has taken occupancy in the property, that such activity or activities may result in noise, dust or other annoyances to him, and waives any rights, claims or actions he may have or acquire against Developer, its contractors and their respective agents and employees, as a result of such activity or activities.

(4) Consequences of Merger. If Developer should, in its sole discretion, elect to develop any one or all of said Additional Phases or any Subsequent Phase, upon completion of construction of any phase, and the filing of the necessary amendments or other documents as hereinabove provided, the completed phases shall be merged and, in such event the following consequences shall ensue (unless otherwise noted, the following applies to phases added by either merger by amendment or merger by declaration):

(a) In the event that the phases are merged by amendment in the manner provided in subparagraph (1) above, the Declaration, the By-Laws attached thereto and the House Rules promulgated thereunder, as any of these may be amended from time to time, shall be the Declaration, By-Laws and House Rules applicable to the merged phases from the time any such merger takes effect and said phase shall become a part of the Horizontal Property Regime hereby created.

(b) In the event that the phases are developed as separate projects and merged in the manner provided in subparagraph (2) above, the Declaration and the By-Laws, as amended, shall collectively be the surviving Declaration and By-Laws applicable to the merged projects, but if any conflict between such sets of documents arises, the Declaration and By-Laws for the First Phase shall control. The Declarant shall for all purposes be deemed the owner of the newly constructed and merged apartments and the undivided percentage interest and other rights and easements appurtenant to such apartments from the time the merger takes effect until the apartments have been conveyed to other parties.

(c) The apartments in each of the merged phases shall have the right to use the common elements of the merged phases to the same extent and subject to the same limitations as are imposed upon an apartment in each phase just as though the phases had been developed as one phase.

(d) Each apartment shall have appurtenant thereto an undivided percentage interest in the common elements of all of the merged phases in the same proportion that such apartment's net floor area bears to the total net floor area of all of the apartments included in the merged phases, as shown on the amended Condominium Map or Condominium Maps for the phases merged, and shall not include any of the walls and partitions within the perimeter walls. The net floor area of each apartment shall be calculated by measuring from the interior surface of the perimeter walls as depicted on the amended Condominium Map or Condominium Maps for the phases merged, and shall not include any of the walls and partitions within the perimeter walls. A determination by a registered Hawaii architect as to the net floor area of each apartment shall be conclusive and binding upon all apartment owners unless such calculation is clearly erroneous. The percentage interest appurtenant to each apartment shall be calculated and rounded off in such a manner such that each percentage interest will be reflected as a number having no more than five digits following the decimal point. Each apartment's undivided percentage interest shall constitute such apartment's proportionate share in the profits and common expenses of the merged phases and such apartment's proportionate representation for all other purposes, including voting in the merged phases; provided, however, that the apartments in any one merged phase shall not be assessed nor shall they have any obligation with respect to debts or obligations existing at the effective date of the merger of the merged phases with respect to any other phase. Further, any long-term funds accumulated prior to any merger of completed phases for the purpose of major repairs and replacements in any existing phase prior to the issuance of a temporary or permanent certificate of occupancy for any Additional or Subsequent Phase being merged with any existing phase or phases shall remain intact in a separate account for such existing phase or otherwise isolated and identified as pertaining only to the existing phase and shall be expended solely for such purposes before funds from any other source are so expended, and the interest in such reserve funds of each Apartment Owner in that phase shall be equal to his undivided percentage interest prior to that merger, and such interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed with such apartment even though not expressly mentioned or described in the instrument of conveyance. Other reserve funds shall be consolidated and maintained as a single fund for the merged phases; and if necessary so that the interest in such other reserve funds attributable to each apartment in the merged phases shall be equal to that apartment's percentage undivided interest in the merged phases, the Board shall make adjustments to the account of each Apartment Owner by (i) refund in whole or in part; and/or (ii) credit in whole or in part against future

assessments; and/or (iii) special assessments or series of assessments; and/or (iv) any other means consistent with the generally accepted accounting principles; provided, however, that the Board shall make such adjustments without charging any Apartment Owner a special assessment for reserves in any one month which exceeds more than twenty percent (20%) of the monthly assessment for other common expenses, after excluding any assessment for reserves.

(e) There shall be only one Association of Apartment Owners, one Board of Directors, one Managing Agent, one Recording Studio Manager and one (except as provided in subparagraph 3 above) common fund, in the manner provided for in the By-Laws.

(f) Notwithstanding any provision in any document, within sixty (60) days following each merger and the filing of the necessary documents to effect the same, a special meeting of the single association of owners of all of the merged phases shall be held to elect a new Board of Directors to replace the existing Board of Directors. The procedure for calling and holding such meeting shall be as provided in the By-Laws.

In the event that any two or more phases are developed simultaneously, the initial Managing Agent to be designated by the Developer shall be the same for all such phases. As the initial Managing Agent for any phase developed after another phase, the Developer shall designate the then Managing Agent of the previously developed phase, if such Managing Agent is then able and willing to act in such capacity. Any employment contract for the Managing Agent shall provide: (a) that the Managing Agent shall act for the merged phases on the same terms and conditions and for the same or lesser fee per apartment, subject to termination, however, upon the affirmative vote to terminate of a majority of the apartment owners of the merged phases at the first annual meeting of the Association of the merged phases; and (b) that if at the time of any merger and the filing of the necessary amendments to effects the same, the Managing Agent is unable or gives notice that it is unwilling to act as the managing agent for the merged phases, such contract shall automatically terminate; provided, however, that the Managing Agent shall continue in its capacity as the managing agent for such period, not exceeding sixty (60) days, as determined in the sole discretion of the Board to be necessary to effect an orderly transition of duties and authority to the new managing agent.

Any employment contract for the Recording Studio Manager shall provide that if at the time of any merger and the filing of the necessary documents to effect the same, the Recording Studio Manager is unable or gives notice that it is unwilling to act as the Recording Studio Manager, such contract shall automatically terminate; provided, however, that the Recording Studio Manager shall continue in its (his) capacity as the Recording Studio Manager for such period, not exceeding ninety (90) days, as determined in the sole discretion of the Board to be necessary to effect an orderly transaction of duties and authority to the new Recording Studio Manager.

RIGHTS RESERVED TO DEVELOPER WITH RESPECT TO THE CONSTRUCTION OF SUBSEQUENT PHASES: The Developer, its contractors and subcontractors and their respective employees and agents, shall have the right at any time, and from time to time prior to December 31, 1990, to enter upon and use the common elements of the Project and do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any Additional and any Subsequent Phase, connecting the same to the utility installations of the Project, and selling the apartments contained within said Additional Phases, and any Subsequent Phase, upon and subject to the following terms and conditions:

(1) The Additional Phases and any Subsequent Phase shall be constructed in accordance with plans and specifications prepared by a licensed architect; provided, however, that such plans and specifications shall not require the alteration or demolition of any existing apartments of the Project;

(2) Developer shall have the right to add, delete, relocate, realign, reserve and grant all easements and rights-of-way and to otherwise make alterations in and use the common elements for such development and construction, and to designate limited common elements over, under and on the common elements, necessary or desirable with respect to the construction or use of the Additional Phases, and any Subsequent Phase, including but not limited to easements and rights-of-way and limited common elements for utilities, cesspools, sanitary and storm sewers, sewage treatment plants, refuse disposal, driveways, parking areas and roadways; provided, that such easements and rights-of-way shall not be located on or within any existing apartment building on the Project and, upon completion, shall not unreasonably and materially impair the use of any existing apartment;

(3) Every Apartment Owner and all holders of liens affecting any of the apartments in the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such apartment, lien or other interest, consents to and agrees that he/it shall, if required by law or by Developer, join in, consent to and execute all instruments and documents necessary or desirable to effect the granting of easements and/or rights-of-ways and/or the designation of limited common elements provided for hereinabove.

(4) The Developer, its contractors, subcontractors and their respective employees and agents, shall not cause any interruption other than a temporary interruption in the service of utilities to the Project and shall use reasonable efforts without additional cost to the Developer and consistent with maintaining the progress of the design, development, construction, completion and sale, to minimize interference with the Apartment Owners' use and enjoyment of the Project.

Developer shall have the reserved right to build on the possible withdrawal areas hereinbelow described in the event that any Additional or Subsequent Phase is developed, subject to and in accordance with all of the terms and conditions hereinabove set forth in subparagraphs (1) through (4) as the same may apply to any construction in said possible withdrawal areas.

DEVELOPER'S OPTION TO SUBDIVIDE AND WITHDRAW AREAS AND TO GRANT EASEMENTS AND/OR RIGHTS OF WAYS: The Developer may, but the Developer is under no obligation to withdraw from the Project any portion or all of those areas designated in Exhibit "G" to the Declaration as possible withdrawal areas. Notwithstanding anything to the contrary in this Public Report, Developer shall, from time to time and at any time up to but not later than December 31, 1990, have the right at its option, to require alteration of the Project by subdividing and withdrawing from the Project and the horizontal property regime all or any portion of the common element areas designated in Exhibit "G" to the Declaration as "possible withdrawal areas", on the following terms and conditions:

(1) Developer shall, at Developer's expense and without being required to obtain the consent or joinder of any apartment owner, lien holder or other person, execute and record an amendment to the Declaration and the Condominium Map: (a) to subdivide and withdraw any areas chosen for withdrawal; and (b) when applicable or necessary, to add, delete, relocate, realign, reserve and grant all easements and rights of ways over, under and on the common elements necessary or desirable, including but not limited to, easements and/or rights of ways for utilities, cesspools, sanitary and storm sewers, cable television, refuse disposal, driveways, parking areas and roadways, provided that such easements and/or rights of ways shall not be located on or within any existing structure on the Project and shall not be exercised as to unreasonably disturb, impair or interfere with the normal use and enjoyment of the Project by the apartment owners.

(2) Every apartment owner and all holders of liens affecting any of the apartments in the Project shall, if required by law or by Developer, join in, consent to, and execute all instruments and documents necessary or desirable to effect the subdivision and withdrawals and/or the granting of easements and/or rights of ways provided for herein.

(3) The withdrawal of an area shall become effective upon the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of (a) an amendment to the Declaration provided for in subparagraph (1) hereinabove, (b) an exhibit setting forth a description of the land withdrawn from the Project, (c) a memorandum of withdrawal, and (d) a deed of the areas withdrawn from the Developer as Grantor.

(4) The granting of easements and/or rights of ways provided for herein shall become effective upon the filing in the Office of the Assistant Registrar of the State of Hawaii of (a) an amendment to the Declaration as provided for in subparagraph (1) above, and (b) an exhibit setting forth a description of the grant, addition, deletion, relocation, realignment or reservation of easement and/or rights of ways.

Each and every party acquiring an interest in the Project, by such acquisition, consents to such subdivisions and withdrawals from the Project and/or the granting of easements and/or rights of ways as provided herein and to any amendment or amendments of the Declaration and the filing thereof in the Office of the Assistant Registrar of the Land Court of the State of Hawaii to effect the same; agrees to execute such

documents and instruments and do such other things as may be necessary or convenient to effect the same, including without limitation the execution of a deed for the property withdrawn to the Developer as Grantee; and appoints the Developer and its assigns his attorney-in-fact with full power of substitution to execute such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties.

RIGHTS RESERVED TO DEVELOPER AND GRANTED TO PARTICULAR APARTMENT OWNERS WITH RESPECT TO THE CONSOLIDATION OF PARTICULAR APARTMENTS. Until such time as Developer has conveyed an apartment in any particular building and an apartment deed therefor has been duly filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, Developer reserves the right to consolidate any two or more apartments in any particular building. Further, from time to time, and at all times, and notwithstanding any provision either in the Declaration or in the By-laws, where all apartments in a particular building are under common ownership, any two or more of said apartments may be consolidated to form one apartment. Each and any such consolidation may be effected, either by the Developer or an Apartment Owner, upon the filing of an as-built certificate for the newly consolidated apartment, and, in the instance where an Apartment Owner is effecting consolidation, upon gaining the written consent of the holders of all liens affecting any of the apartments being consolidated, and, in both instances, upon the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the following documents:

(1) An Amendment to the Declaration consolidating the apartments in question and setting forth at least: (i) a description of the newly consolidated apartment, including a statement as to what limited common elements are appurtenant thereto; (ii) the undivided percentage interest appurtenant to the newly consolidated apartment, which shall consist of the total of the undivided percentage interests of the apartments consolidated; and (iii) such other matters as the Developer or apartment owner as the case may be, deem necessary or appropriate or as may be required by law to effectuate the consolidation of the apartments.

(2) An Amendment to the Condominium Map for the apartments being consolidated to show an amended floor plan, as necessary, together with a verified statement of registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that said Condominium Map, as so amended, is an accurate copy of portions of the plans of the consolidated apartment as filed with and approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings. Notwithstanding anything to the contrary hereinabove provided, if any such consolidation is effected prior to the "date of completion" as defined in Section 507-43, Hawaii Revised Statutes, or the date of occupancy of the apartments as consolidated, the certification need not contain a statement by the architect

or engineer that the plans fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built, pursuant to said Section 514A-12 of the Act; provided that upon completion and occupancy of such apartment the Developer or apartment owner, as the case may be, shall have the right to further amend the Declaration to file the "as-built" verified statement for such apartment so long as such amendment is a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.

The Declarant expressly reserves the right to so amend the aforesaid Declaration and Condominium Map at any time or times prior to the conveyance of any apartment in the building in which such apartments to be consolidated are located, and Declarant may, without being required to obtain the consent or joinder of any apartment owner, lien holder or other persons, execute and file amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Declarant. Any such action shall be deemed taken by Declarant as the true and lawful attorney-in-fact of the respective apartment owners. Any Apartment Owner owning all of the apartments in any one particular building shall have the right to so amend the aforesaid Declaration and Condominium Map to effect the consolidation of apartments in the building, provided that he shall obtain the written consent of the holder of all liens affecting any of the apartments being consolidated; and provided further that said Apartment Owner shall not be required to obtain the consent or joinder of any apartment owner or other persons (except lien holders as hereinabove provided), to execute and file amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or executing the rights, powers or privileges herein granted to said Apartment Owner. Any such action as may be necessary shall be deemed taken by said Apartment Owner as the true and lawful attorney-in-fact of the respective apartment owners.

Except as provided above with respect to lien holders in the instance where the Apartment Owner is effecting the consolidation, each and every party acquiring an interest in the property, by such acquisition, consents to any such consolidation or consolidations of apartments in accordance with the provisions hereinabove stated, and to the amendment or amendments of the Declaration and the Condominium Map to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints the Developer or the apartment owner in question and their respective assigns, as the case may be, his attorney in fact with right of substitution to execute such documents and do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by disability of such party. Each and every person also acknowledges, accepts and agrees that construction activity may occur and/or continue on the property submitted to the Declaration after he has taken occupancy in the property in order that the consolidation of apartments as aforesaid may be

effected, and that such activity or activities may result in noise, dust or other annoyances to him, and said persons waive any rights, claims or actions which they may have or acquire against Developer or the apartment owner in question, its/his contractors, subcontractors and their other respective agents or employees, as a result of such activity or activities.

PREEMPTIVE RIGHTS ON ALIENATION: In the event that any apartment owner shall desire to sell his apartment, he shall, before selling to any other person, notify the Association in writing of his desire to sell, of his address and of the price requested for the apartment, and the Association, acting through the Board, shall have the exclusive option to purchase said apartment at the price requested by the apartment owner. Within sixty (60) days after the receipt of the notice, the Association shall in writing notify the apartment owner at the address so specified whether it elects to exercise its option. The date of election to purchase shall constitute the date of valuation for purchase by the Association. Nonpayment of the purchase price by the Association within ninety (90) days from the date of election shall constitute a default and shall void the election and terminate the right to exercise the option by the Association. If the Association, acting through the Board, refuses, or fails within the sixty (60) day period to reply to the apartment owner's offer to sell by either agreeing to purchase the apartment in question at the requested price or by giving notice of disagreement with the requested price, or if the Association defaults in payment of the purchase price (however such price is determined, whether by appraisal as hereinbelow provided or otherwise), the apartment owner may sell the apartment free from any price restrictions and/or any right of the Association to purchase said apartment; provided, however, that in the event that the apartment owner fails to sell his apartment within two years from the last date on which the Association could have purchased said apartment, the apartment owner must again comply with all of the provisions hereinabove provided.

Notwithstanding anything hereinabove provided to the contrary or from which a contrary intent may be inferred, in the event that the Board in its sole discretion disagrees with the requested price, it shall notify the apartment owner of its disagreement within the sixty (60) day period as provided above, and in such event the price for any such apartment shall be the fair market value of said apartment and shall be determined by a mutually agreed upon appraiser (the cost of which shall be borne by the apartment owner); provided, however, that if no agreement can be reached by the Board and the Apartment Owner as to who the appraiser is to be within ten (10) days of the Board's notification of the apartment owner of its disagreement with the requested price, then in any such event the fair market value of said apartment shall be determined by three disinterested real estate appraisers who shall possess the qualifications, be selected in the manner, and determine said price in accordance with the procedures set forth in paragraph 21 of the Declaration.

PROPERTY AREA DISCLAIMER: The Project shall, in all events and under all circumstances, be subject to the laws of the State of Hawaii with regard to seaward boundaries, diminution and accretion, and in the event that a survey of the Project is

done at some future point in time, and where said survey does not comport with the description of the land as provided in Exhibit "A" to the Declaration, Developer shall in no such event be held responsible for any loss in land area, and no action shall lie against Developer on account thereof by any apartment owner or any other person having an interest in the Project, their estates, heirs, devisees, personal representatives, successors, successors in trust and assigns.

STATUS OF THE PROJECT: The Developer advises that buildings number 1, 2 and 3 of the Project are existing structures and were completed on or about June, 1978. Construction of the remaining buildings of the Project is scheduled to commence on or about March, 1980, and completion is scheduled for about December, 1981.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the Notice of Intention submitted on December 28, 1979, and information subsequently filed as of February 19, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 1224 filed with the Commission's Public Report. The paper stock used in making facsimiles must be yellow.

 (for)

AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

DISTRIBUTION:

Department of Taxation
Office of the Assistant Registrar of the Land Court
Planning Department
City and County of Honolulu
Federal Housing Administration
Escrow Agent

Registration No. 1224
February 22, 1980

