

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
STATE OF HAWAII
1010 RICHARDS STREET
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HONOLULU, HAWAII 96801

SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
KALAPAKI VILLAS
Rice Street
Lihue, Kauai, Hawaii

REGISTRATION NO. 1236

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

It was prepared as a supplement to an earlier Report dated February 15, 1980 and 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: February 14, 1984

Expires: September 27, 1984

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 JANUARY 29, 1980, AND INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 8, 1984. THE OWNER, 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 dated February 15, 1980 and Final Public Report dated February 27, 1981, on the KALAPAKI VILLAS, certain material changes have been made in the Project.

2. Except for Apartment Nos. 207, 208, 312, 408, 2511, 2612, 2710, and 2803, which have been conveyed to third-party purchasers, the original Developer, Kalapaki Associates, has conveyed title to the Project to State Savings and Loan Association, First Federal Savings and Loan Association of Chicago, and U.S. Steel Credit Corporation, herein collectively called "Owner", in lieu of foreclosure of the interim construction loan on the Project.

3. The Owner has filed all documents and materials deemed necessary by the Commission for the registration of this condominium project and the issuance of this Supplementary Public Report.

The basic documents (Declaration of Horizontal Property Regime, Bylaws of the Association of Apartment Owners) were dated February 3, 1981, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15325, Page 500 and amended by First Amendment dated December 28, 1981, recorded in said Bureau in Liber 16070, Page 622; Second Amendment dated January 8, 1982, recorded in said Bureau in Liber 16095, Page 759, and Third Amendment dated January 8, 1982, recorded in said Bureau in Liber 16098, Page 495. A copy of the floor plans has been filed as Condominium Map No. 785, as amended.

4. 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 which relate to Horizontal Property Regimes.

5. Advertising and promotional matter has been filed pursuant to the Rules and Regulations promulgated by the Commission.

6. This Supplementary Public Report amends the Preliminary and Final Public Reports, becoming a part of the KALAPAKI VILLAS registration. The Owner is responsible for placing a true copy of this Supplementary Public Report (pink paper stock) in the hands of all purchasers and prospective purchasers along with a copy of the Preliminary Public Report (yellow paper stock), Final Public Report (white paper stock) and updated Disclosure Abstract dated December 8, 1983, and securing a receipt therefor.

7. This Supplementary Public Report automatically expires on September 27, 1984, unless a Second Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information in the Preliminary Public Report of February 15, 1980 and the Final Public Report of February 27, 1981, under the topical headings COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, STATUS OF PROJECT, and MANAGEMENT OF PROJECT, have been changed. The topical headings DEVELOPER and ATTORNEY REPRESENTING DEVELOPER have been deleted. New sections

entitled OWNER, ATTORNEYS FOR OWNER, and RIGHT OF SUBDIVISION AND WITHDRAWAL have been added.

OWNER: STATE SAVINGS AND LOAN ASSOCIATION, 180 South King Street, Honolulu, Hawaii 96813, Telephone (808) 523-3111; FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO, One South Dearborn Street, Chicago, Illinois 60603, Telephone (312) 977-5515; and U.S. STEEL CREDIT CORPORATION, 600 Grant Street, Pittsburgh, Pennsylvania 15230, Telephone (412) 433-1121.

ATTORNEYS FOR OWNER: Carlsmith, Carlsmith, Wichman and Case, Suite 2200, Pacific Tower, 1001 Bishop Street, Honolulu, Hawaii 96813, Telephone (808) 523-2500 (Attention Deborah M. Chun or John K. Lucey); and Law Office of Howard R. Green, Suite 2470, Pacific Tower, 1001 Bishop Street, Honolulu, Hawaii 96813, Telephone (808) 528-1100 (Attention: Howard R. Green).

COMMON ELEMENTS: As reflected in the First Amendment to the Declaration dated December 28, 1981 and recorded in said Bureau in Liber 16070, Page 622, the unassigned and guest parking stalls listed under No. 7 of this topical heading in the Final Public Report have been revised in its entirety as follows:

Unassigned Parking Stalls

3002, 3006, 3008, 3010, 3012,
3014, 3016, 3018, 3020, 3022,
3024, 3026, 3028, 3030, 3032,
3034, 3036, 3038, 3040, 3042,
3046, 3048, 3050, 3052, 3054,
3058, 3060, 3064, 3066, 3068,
3070, 3072, 3149, 3151, 3153,
3155, 3157, 3159, 3161, 3165,
3167, 3169, 3171, 3173, 3175,
3177, 3179, 3181, 3183, 3187,
3189, 3191, 3193, 3201, 3203,
3205, 3207, 3209, 3211, 3213,
3215, 3217, 3219, 3221, 3250,
3252, 3254, 3256, 3258, 3260
3262, 3264

Guest Parking Stalls

3001, 3005, 3007, 3009, 3011,
3013, 3015, 3017, 3019, 3021,
3023, 3025, 3027, 3029, 3031,
3033, 3035, 3037, 3039, 3041,
3045, 3047, 3049, 3051, 3053,
3055, 3059, 3061, 3065, 3067,
3069, 3071, 3073, 3150, 3152,
3154, 3156, 3158, 3160, 3162,
3166, 3168, 3170, 3172, 3174,
3176, 3178, 3180, 3182, 3186,
3188, 3190, 3192, 3194, 3202,
3204, 3206, 3208, 3210, 3212,
3214, 3216, 3218, 3220, 3249,
3251, 3253, 3255, 3257, 3259,
3261, 3263

OWNERSHIP OF TITLE: The Preliminary Report of Title dated August 15, 1983 and issued by Security Title Corporation shows that fee simple title to the Project (not including the apartment units previously sold to third-party purchasers as referenced in Paragraph 2 above) is vested in the original developer, Kalapaki Associates. All of the right, title and interest of Kalapaki Associates in the Project was conveyed to Owner by Warranty Deed dated April 29, 1983, and recorded in the Bureau of Conveyances on September 8, 1983 in Liber 17306, Page 245. This is reflected in a commitment for title insurance issued by First American Title Company on January 17, 1984.

ENCUMBRANCES AGAINST TITLE: The Commitment for Title Insurance referred to above lists the following encumbrances:

1. Any real property taxes which may be due and owing for the individual apartments. For further information, check with the tax office.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent Nos. 4478 and 4480.

3. Old railroad right of way as delineated on tax map and designated by tax map key: K-3-6-3-26.

4. A Tunnel Easement "10" as delineated on tax map and designated by tax map key: K-3-6-3-26.

5. A Ditch as delineated on tax map and designated by tax map key: K-3-6-3-26.

6. An easement of way in favor of Tamotsu Shinseki and Fudeko Shinseki, together with all others entitled thereto, in, to and over LOT 6 (30 ft. roadway) granted by that certain Indenture dated April 7, 1952, recorded on April 14, 1952 in the Bureau of Conveyances of the State of Hawaii in Book 2575, Page 121. (Affects Parcel Second)

7. A perpetual right of way as an easement for ingress and egress, drainage and pipeline purposes in favor of the County of Kauai, granted by that certain Deed of Gift dated November 14, 1961, recorded on December 16, 1961 in said Bureau of Conveyances in Book 4181, Page 385; as amended by Correction Deed of Gift dated August 24, 1965, recorded on October 15, 1965 in said Bureau of Conveyances in Book 5165, Page 1.

Said easement is subject to restrictions and conditions as set forth therein.

8. The following easements as delineated on tax map and designated by tax map key: K-3-6-3-26.

- (a) Sewer Easement "G"
- (b) Water Easement "A"
- (c) Water Easement "B"
- (d) Water Easement "C"
- (e) Water Easement "E"

9. Reservation in favor of The Lihue Plantation Company, Limited, a Hawaii corporation, as set forth in Deed dated December 28, 1978, recorded on December 28, 1978 in said Bureau of Conveyances in Book 13379, Page 41.

10. Grant of Easement dated December 4, 1978 in favor of Citizens Utilities Company, a Delaware corporation, granting a perpetual right and easement to build, etc., pole and wire lines and/or underground lines, etc., over, under, upon, across and through those certain premises, being within Easement 11, recorded on December 15, 1978 in said Bureau of Conveyances in Book 13351, Page 721.

11. Undated Financing Statement covering certain fixtures located on the real property, given as security by Kalapaki Associates in favor of State Savings and Loan Association, recorded on November 28, 1980 in said Bureau of Conveyances in Book 15170, Page 6.

12. First Mortgage, Security Agreement and Financing Statement dated November 28, 1980, recorded on November 28, 1980 in said Bureau of Conveyances in Book 15170, Page 21, made by KALAPAKI ASSOCIATES, a Hawaii joint venture, as Mortgagor(s), to STATE SAVINGS AND LOAN ASSOCIATION, a Utah corporation, doing business in the State of Hawaii, as Mortgagee(s), to secure the repayment of the sum of \$11,000,000.00, 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.

13. Condominium Map No. 785 filed in said Bureau of Conveyances on February 4, 1981.

14. The covenants, agreements, obligations, conditions and other provisions set forth in that certain DECLARATION OF HORIZONTAL PROPERTY REGIME OF KALAPAKI VILLAS, dated February 3, 1981, recorded on February 4, 1981 in said Bureau of Conveyances in Book 15325, Page 500 as amended, and the Bylaws attached thereto.

a. By instrument dated December 28, 1981, recorded on December 29, 1981 in said Bureau of Conveyances in Book 16070, Page 622, the foregoing Declaration was amended.

b. By instrument dated January 8, 1982, recorded on January 12, 1982 in said Bureau of Conveyances in Book 16095, Page 759, the foregoing Declaration was further amended.

c. By instrument dated January 8, 1982, recorded on January 13, 1982 in said Bureau of Conveyances in Book 16098, Page 495, the foregoing Declaration was further amended.

And all exclusive and nonexclusive easements mentioned in said Declaration and Condominium Map.

15. Further proceedings made in the matter entitled "STATE SAVINGS AND LOAN ASSOCIATION, a Utah corporation, et al., Plaintiffs, vs. KALAPAKI ASSOCIATES, a Hawaii joint venture, et al., Defendants", now pending in the Circuit Court of the First Circuit, State of Hawaii, filed September 8, 1982 under Civil No. 73171. RE: FORECLOSURE OF MORTGAGE IN BOOK 15170, PAGE 21 AND SECURITY INTEREST IN BOOK 15170, PAGE 6.

By "ORDER" filed September 10, 1982, Melvin C. Ventura was appointed as Receiver of the property to serve without bond.

(NOTE: The attorney for Owner has indicated that pursuant to the Order filed October 14, 1983 and entered in Civil No. 73171, the Receivership automatically terminated on December 31, 1983 and Civil No. 73171 was dismissed.)

16. Further proceedings made in the matter entitled "WALLACE A. SAFFERY, et al., Plaintiffs, vs. KALAPAKI ASSOCIATES, a Hawaii joint venture, Defendants", now pending in the Circuit Court of the First Circuit, State of Hawaii filed April 14, 1982 under Civil No. 70646. RE: CANCELLATION OF CONTRACT. (As to Apartment No. 2501)

17. Further proceedings made in the matter entitled "MELVIN M. NAKAMURA, et al., Plaintiffs, vs. KALAPAKI ASSOCIATES, a Hawaii joint venture, et al., Defendants", now pending in the Circuit Court of the First Circuit, State of Hawaii, filed June 29, 1982 under Civil No. 72041. RE: CANCELLATION AGREEMENT. (As to Apartment No. 2401 and 2405)

18. Further proceedings made in the matter entitled "CHARLES K. H. WONG, et al., Plaintiffs, vs. KALAPAKI ASSOCIATES, a Hawaii partnership, et al., Defendants", now pending in the Circuit Court of the First Circuit, State of Hawaii, filed August 12, 1982 under Civil No. 72788. RE: CANCEL CONTRACT. (as to Apartment No. 2407)

19. Further proceedings made in the matter entitled "THELMA S. CHRISTISON, et al., Plaintiffs, vs. KALAPAKI ASSOCIATES, a registered Hawaii joint venture, et al., Defendants", now pending in the Circuit Court of the First Circuit, State of Hawaii, filed March 10, 1983 under Civil No. 76424. RE: CANCEL CONTRACT. (As to Apartment No. 2504)

20. Any acts which a correct survey and inspection of the land would disclose.

NOTE: The attorney for Owner has indicated that the liens created by the security interest and first mortgage referenced in paragraphs 11 and 12 and which are the subject of the foreclosure proceedings referenced in Paragraph 15 shall be released and discharged of record as to each condominium apartment unit prior to its being conveyed to a purchaser, and such apartment shall be conveyed free and clear of said foreclosure proceedings.

PURCHASE MONEY HANDLING: The Owner has entered into a new Escrow Agreement dated January 26, 1984 with First American Title Company of Hawaii, Inc. The Escrow Agreement and Deposit Receipt, Offer and Acceptance contracts ("DROA") to be used by Owner have been submitted to the Commission and have been found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. The provisions of the DROA contracts should be carefully read by the purchasers.

Among other provisions, the Escrow Agreement provides that a purchaser shall be entitled to a refund of his funds, less any cancellation fee, and Escrow shall pay said funds to the

purchaser without interest, if the purchaser's contract is terminated because the purchaser requires financing and is unable to obtain a mortgage loan within thirty (30) days of the execution of the DROA.

The Escrow Agreement also provides that Escrow shall deposit all funds received in a bank or savings and loan institution selected by Owner and that any interest earned thereon shall accrue to Owner.

The specimen DROA filed with the Commission provides, among other things:

1. That the Buyer understands and acknowledges that the Declaration contains certain reservations in favor of the Owner and its successors and assigns including, without limitation, the right to subdivide and withdraw a portion of the land from the Project together with the right to reconvey the withdrawn land to third parties, and the right to consolidate or merge subsequent increments of the Project (if any) and, in connection therewith, to adjust the percentage interest appurtenant to the apartments in the Project. In the DROA, the Buyer also acknowledges that he has had an opportunity to review the applicable provisions of the Declaration and other Project documents including the sample Apartment Deed. Further, the Buyer agrees to execute such documents and to do such other things as may be necessary or convenient to the exercise of such reserved rights and grants the Owner an irrevocable Special Power of Attorney to execute any such document and to do any such thing on behalf of Buyer.

2. That the Owner makes no express warranties and that the Owner DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OR WORKMANSHIP AND ANY OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT. The Buyer also acknowledges that he has had an opportunity to examine the Apartment, the common elements and the Project and that neither the Owner nor its respective agents, representatives or employees have made any warranties, express or implied, with respect to the Apartment, its quality or grade, or any of the common elements of the Project or anything installed therein, their quality or grade. The Owner disclaims any and all responsibility or liability for any water infiltration, any malfunction, any construction or design defect, or any other problems which Buyer may encounter with respect to the Apartment or the Project. The BUYER FURTHER ACKNOWLEDGES THAT HIS ATTENTION HAS BEEN DIRECTED TO PARAGRAPH 9 OF THE DROA, THAT HE HAS READ AND UNDERSTANDS THE DISCLAIMERS OF WARRANTY AND THAT HE EXPRESSLY, KNOWINGLY AND INTELLIGENTLY WAIVES AND RELEASES ANY AND ALL RIGHTS, CLAIMS, ACTIONS OR CAUSES OF ACTION HE NOW HAS OR MAY HAVE IN

THE FUTURE ARISING OUT OF, RELATED TO, OR CONNECTED IN ANY WAY WITH, ANY DEFECTS OR DEFICIENCIES IN THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT.

The DROA also provides that if the purchaser requires financing but cannot obtain a mortgage loan commitment within thirty (30) days of his execution of the DROA, the contract may be terminated at the option of the Owner, in which case the purchaser shall be entitled to a refund of his deposit.

RIGHT OF SUBDIVISION AND WITHDRAWAL: Purchasers are advised that the Owner intends to exercise rights reserved in the Declaration to subdivide, withdraw, and convey a portion of the land which is part of the Project. Specifically, the Owner has received tentative subdivision approval from the County of Kauai which will permit the Owner to withdraw a portion of the land consisting of approximately 8.291 acres (to be designated Lot E-2B) from the Project and to convey the same to third-party purchasers. Lot E-2B constitutes a portion of land referenced in Exhibit E to the Declaration, as amended, which is subject to the right of withdrawal.

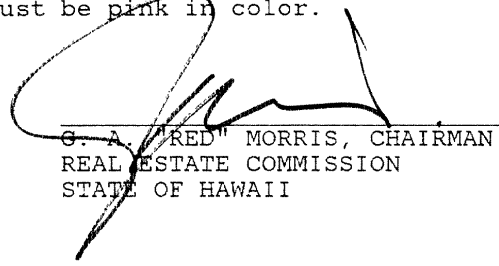
MANAGEMENT AND OPERATION: The project is being managed by Advanced Property Management, Inc., a Hawaii corporation, pursuant to a Management Agreement dated October 5, 1982. A copy of the Management Agreement has been filed with the Commission.

STATUS OF PROJECT: Construction of the Project is complete and is ready for occupancy.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed in the Notice of Intention submitted January 29, 1980 and information subsequently filed as of February 8, 1984.

THIS SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1236 filed with the Commission on January 29, 1980. This report when

reproduced shall be a true copy of the Commission's Public Report. The paper stock must be pink in color.



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

Distribution:

DEPARTMENT OF FINANCE, COUNTY OF KAUAI
BUREAU OF CONVEYANCES
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Registration No. 1236

February 14, 1984