

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
KAILUA BAY RESORT
Kailua-Kona, Hawaii

REGISTRATION NO. 1248

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 : March 21, 1980
Expires: April 21, 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 and prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED ON FEBRUARY 19, 1980, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF MARCH 18, 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. KAILUA BAY RESORT is a leasehold condominium project consisting of five three-story multi-family residential buildings containing a total of ninety-five (95) units and one one-story building comprising a recreation center containing the manager's office, wet bar

facilities, covered lanai, men's and women's rest-rooms, pool equipment room and storage facilities. There will be one hundred nineteen (119) parking stalls, including thirty-nine (39) covered parking stalls and eighty (80) uncovered parking stalls. There will be 23 uncovered guest parking stalls.

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 is responsible for placing this Preliminary Public Report (yellow paper stock) and the Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a receipt therefor.
3. The basic documents (Declaration of Horizontal Property Regime of Kailua Bay Resort, Bylaws of Association of Apartment Owners of Kailua Bay Resort and a copy of the floor plans of the project) have not yet been filed in the Bureau of Conveyances of the State of Hawaii.
4. Advertising and promotional matter has been submitted to the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Rules and Regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, March 21, 1980, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of the registration of KAILUA BAY RESORT.

NAME OF PROJECT: KAILUA BAY RESORT

LOCATION: The land, consisting of two (2) parcels containing 2.742 acres, more or less, is situate at Kailua-Kona, County and State of Hawaii.

TAX KEY: Third Division, 7-5-04:21

ZONING: V 1.25

DEVELOPER: The Notice of Intention states that the Developer of this project is KAILUA BAY RESORT VENTURE, a Hawaii registered partnership, whose post office address is P.O. Box 131, Honolulu, Hawaii 96810 and whose telephone number is 524-4787.

The partners are Jefferson Holdings (Hawaii) Inc. and Frank Bean Holdings (Hawaii) Inc., both of which have as their address P. O. Box 131, Honolulu, Hawaii 96810 and their phone 524-4787.

ATTORNEY REPRESENTING DEVELOPER: Ashford & Wriston (Attention: Galen C. K. Leong and Diane S. Kishimoto), 235 Queen Street, Honolulu, Hawaii (Telephone: 524-4787).

DESCRIPTION: The project will consist of six (6) buildings as follows: Three three-story buildings containing eighteen apartments each; one three-story building containing seventeen apartments; one three-story building containing twenty-four apartments; a one-story building comprising the recreation center, which contains the manager's office, wet bar facilities, covered lanai, men's and women's restrooms, pool equipment room and storage facilities. There will be a total of ninety-five (95) residential apartments. Buildings 1, 2, 3 and 5 also have semi-basements containing parking stalls. There will be one hundred nineteen (119) parking stalls, including thirty-nine (39) covered parking stalls and eighty (80) uncovered parking stalls. Eleven (11) of the uncovered parking stalls are compact stalls. The recreation area will consist of the recreation center, swimming pool and its immediately adjacent deck area. The buildings are constructed principally of wood, glass and concrete block.

The apartments are more particularly described as follows:

Ninety-five (95) separate estates are designated as apartments in the spaces within the perimeter walls, floor and ceiling surrounding each apartment, including any appurtenant lanai space, all as shown on the Condominium Map.

The apartments are numbered in the manner and located in the position shown on the Condominium Map described above. The apartment numbers contain four digits. The first number designates the building in which the apartment is located. The second number, which is separated from the first number by a hyphen, designates the floor on which the apartment is located. The third number is always "0". The last number designates the location of the apartment on its floor. The apartment numbers on each floor of Buildings 1, 2, 3 and 5 run in ascending order from west to east. The apartment numbers on each floor of Building 4 run in ascending order from north to south. There is no Apartment No. 3-305.

The apartments are constructed according to several different floors plans. A description of each of said floor plans, designating the number of rooms and approximate floor area of each apartment is set forth in Exhibit "A" attached hereto and for every purpose made a part hereof.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the unfinished surfaces of the

floors and ceilings which surround each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as herein provided. Each apartment shall be deemed to include its adjacent lanai, including the lanai railings, all of the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, all windows and window frames and doors and door frames serving the apartment and all fixtures and appliances originally installed in such apartment for its exclusive use.

Each apartment has immediate access to the grounds of the Project or to a corridor leading to stairways which connect the apartment to the grounds, walkways and driveways of the Project and the adjacent public street.

COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime states that the common elements shall include: (a) the land in fee simple; (b) all foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, corridors, fire escapes, roofs, stairs, walkways and entrances and exits of the buildings; (c) the yards and grounds, fences, driveways, pavement and refuse facilities; (d) central facilities and appurtenant installations for utility and other common services such as power, light, gas and water; (e) 23 guest parking stalls; (f) recreation center and swimming pool; (g) all other apparatus and installations existing for common use; (h) all other parts of the project necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime provides that certain parts of the common elements, called the "limited common elements", are designated and set aside for the use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements as follows:

- (a) Each apartment shall have appurtenant thereto an exclusive right to use the parking stall or stalls assigned to such apartment as set forth in Exhibit "A" attached hereto. Each apartment shall always have at least one parking stall appurtenant to it but otherwise any parking stall may be conveyed and made appurtenant to another apartment by a written instrument expressly identifying the apartment to which the parking stall is appurtenant as well as the apartment to which the parking stall will become appurtenant, which written instrument shall be denominated as an amendment of the Declaration, shall be executed by the owner of each apartment affected with the consent of the mortgagee of each apartment affected. The conveyance and Amendment of Declaration shall be effective upon filing of the same in the Bureau of

Conveyances of the State of Hawaii. A copy of said instrument, together with the recording data, shall be given to the Association by the affected apartment owners within 15 days of the filing thereof.

- (b) Each apartment in Buildings 1, 2, 3 and 5 shall have appurtenant thereto an exclusive right to use one storage locker bearing the same number as the apartment and located in the semi-basement parking area of the building in which the apartment is located. Developer reserves the right to designate, without amendment hereof, at any time up to and including closing of the initial conveyance of an apartment, the specific storage locker appurtenant to such apartment. Each apartment in Buildings 1, 2, 3 and 5 shall have appurtenant thereto a nonexclusive right of access over and across the parking stalls located in the semi-basement parking area in which the storage locker appurtenant to such apartment is located.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the Project, called the "common interest", and the same proportionate share in the common profits and expenses of the Project and for all other purposes, including voting, as set forth in Exhibit "A" attached hereto.

EASEMENTS: The proposed Declaration of Horizontal Property Regime provides that the apartments and common elements shall have and be subject to the following easements:

(a) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to, egress from and utility services for and support of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as herein provided; and in all other apartments of the building for support.

(b) If any part of the common elements encroaches upon any apartment or limited common element or if any apartment or limited common element encroaches upon the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. If any portion of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

(c) The Association of Apartment Owners of the Project shall have the right, to be exercised by its Board of Directors or Managing Agent, to enter any apartment and limited common element from time to time during reasonable

hours as may be necessary for the operation of the Project or for the installation, repair or replacement of any common elements or at any time for making emergency repairs therein required to prevent damage to any apartments or common elements.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the apartments may be occupied and used as dwellings by the respective owners thereof, their tenants, families, domestic servants and guests. Except for the foregoing restriction, the owners of the respective apartments shall have the absolute right to rent or lease such apartments for such durations of time as they shall deem appropriate, subject to all provisions of the Declaration.

OWNERSHIP TO TITLE: The Developer reports that the fee simple title to the land is vested in Alaskan Kahala Investments, Ltd. A Preliminary Title Report referred to below confirms such ownership. By indenture dated February 14, 1980, the fee owner leased the land to the Developer for a term of 57 years. A copy of said lease is on file at the Commission.

ENCUMBRANCES AGAINST TITLE: A Preliminary Title Report prepared by Title Guaranty of Hawaii, Incorporated, dated February 5, 1980, shows that the land is subject to the following encumbrances:

1. For any taxes that are due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor, Third Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Grant of easement to Hawaii Electric Light Company, Inc. dated July 29, 1958, as mentioned in instrument recorded in said Bureau in Liber 9167, at Page 2.
4. As to Parcel FIRST only, Grant in favor of the County of Hawaii, dated March 11, 1971, recorded in said Bureau in Liber 7472, at Page 382.
5. As to Parcel SECOND only, a perpetual easement in favor of Parcel 6 conveyed to Marguerite Lima.
6. Mortgage, Security Agreement and Financing Statement, dated May 30, 1979, by and between Alaskan Kahala Investments, Ltd., as mortgagor, and Bank of Hawaii, as mortgagee, and recorded in said Bureau in Liber 13744, at Page 151.

In addition, the land is subject to said lease dated February 14, 1980 naming the Developer as lessee.

PURCHASE MONEY HANDLING: A copy of the specimen Sales Contract and the executed Escrow Agreement dated February 14, 1980, have

been submitted as part of the registration. The Escrow Agreement identifies Title Guaranty Escrow Services, Inc. as the Escrow. Upon examination, the Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. It is incumbent upon the purchaser and prospective purchaser that he read with care the specimen Sales Contract and the executed Escrow Agreement. The former provides, among other things, that purchaser's interest in the Contract shall be subordinate to the lien of any construction loan. The latter agreement establishes how the proceeds from the sale of apartments and all sums received from any source are placed in escrow, as well as the methods of disbursement of said funds.

The executed Escrow Agreement states, in part: A purchaser shall be entitled to a return of his funds, and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

- (a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or
- (b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or
- (c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, there shall have been a change in the building plans, subsequent to the execution of purchaser's sales contract, requiring approval of a county officer having jurisdiction over the issuance of building permits, unless such change is specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or unless a purchaser's written approval or acceptance of the specific change is obtained or ninety days have elapsed since the purchaser has accepted in writing the apartment or the purchaser has first occupied the apartment; or
- (d) The Final Report differs in a material respect from the Preliminary Report, and the purchaser's written approval of such change shall not have been obtained; or
- (e) The Final Report shall not have been issued within one (1) year from the date of issuance of the Preliminary Report and the purchaser has not waived or has not been deemed to have waived his right to a refund.

In any of the foregoing events, Escrow shall pay said funds to said purchaser (less a cancellation fee to Escrow

of not less than \$25.00 per apartment or a cancellation fee commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater) and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held hereunder; provided, however, that no refund shall be made to a purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

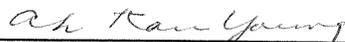
MANAGEMENT AND OPERATIONS: The proposed Declaration discloses that the administration of the project shall be vested in the Association of Apartment Owners. Operation of the project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the Bylaws except that the initial Managing Agent shall be appointed by the Developer. Kanaloa Realty and Property Managers, Inc., whose principal place of business and post office address is Kailua Bay Inn, Kailua-Kona, Hawaii 96740 (Phone: 329-9371), has been named as the initial Managing Agent.

STATUS OF THE PROJECT: The Developer reports that construction of the project has not commenced.

The purchaser or prospective purchaser shall be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted February 19, 1980, and information subsequently filed as of March 18, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1248 filed with the Commission on February 19, 1980.

The report, when reproduced, shall be a true copy of the Commission's public report. The paper stock must be yellow in color.



AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

Department of Taxation
Bureau of Conveyances
Planning Commission, County of Hawaii
Federal Housing Administration
Escrow Agent

REGISTRATION NO. 1248

March 21, 1980

EXHIBIT "A"

There are ten (10) apartment types: Types A, AP, AL, B, BP, BL, C, CP, CL and D. Each of the apartment types, except Apartment Type D, is a one-story apartment consisting of four rooms, being a living/dining room, kitchen, bathroom and bedroom, plus a lanai. The apartment types designated as "L" also include a storage loft over the living/dining room which is connected to the lower level by a wooden ladder. The bathrooms of apartment types designated as "P" are equipped for paraplegics. There are slight variations in the areas of apartments of the same type. Apartment Type D is a two-story apartment consisting of one bedroom, a bathroom, kitchen, living room or dining room and lanai on the first floor (the second floor of the building in which the apartment is located) and one bedroom, a bathroom, a living room or master bedroom and lanai on the second floor (the third floor of the building in which the apartment is located) and a storage loft connected to the second floor by a wooden ladder. The two stories of Apartment Type D are connected by an internal stairway.

<u>Apt. No.</u>	<u>Type</u>	<u>Approx. Gross Area*</u>	<u>Percentage Common Interest</u>	<u>Parking Stall No.</u>	
				<u>Covered</u>	<u>Uncovered</u>
1-101	C	840 sq.ft.	0.95%		1-101
1-102	B	826	0.94		1-102
1-103	B	826	0.94		1-103
1-104	B	826	0.94		1-104
1-105	B	826	0.94		1-105
1-106	A	840	0.95		1-106
1-201	C	874	0.99	1-201	
1-202	B	826	0.94	1-202	
1-203	B	826	0.94		1-203
1-204	B	826	0.94		1-204
1-205	B	826	0.94		1-205
1-206	A	882	1.00	1-206	
1-301	CL	1,114	1.26	1-301	
1-302	BL	1,065	1.21	1-302	
1-303	BL	1,065	1.21	1-303	
1-304	BL	1,065	1.21	1-304	
1-305	BL	1,065	1.21	1-305	
1-306	AL	1,122	1.27	1-306	
2-101	C	840	0.95		2-101
2-102	B	826	0.94		2-102
2-103	B	826	0.94		2-103
2-104	B	826	0.94		2-104
2-105	B	826	0.94		2-105
2-106	A	840	0.95		2-106

* Including lanai

<u>Apt. No.</u>	<u>Type</u>	<u>Approx. Gross Area*</u>	<u>Percentage Common Interest</u>	<u>Parking Stall No.</u>	
				<u>Covered</u>	<u>Uncovered</u>
2-201	C	874 sq.ft.	0.99%	2-201	
2-202	B	826	0.94	2-202	
2-203	B	826	0.94		2-203
2-204	B	826	0.94		2-204
2-205	B	826	0.94		2-205
2-206	A	882	1.00	2-206	
2-301	CL	1,114	1.26	2-301	
2-302	BL	1,065	1.21	2-302	
2-303	BL	1,065	1.21	2-303	
2-304	BL	1,065	1.21	2-304	
2-305	BL	1,065	1.21	2-305	
2-306	AL	1,122	1.27	2-306	
3-101	C	840	0.95		3-101
3-102	B	826	0.94		3-102
3-103	BP	826	0.94		3-103
3-104	BP	826	0.94		3-104
3-105	BP	826	0.94		3-105
3-106	AP	840	0.95		3-106
3-201	C	874	0.99	3-201	
3-202	B	826	0.94	3-202	
3-203	B	826	0.94		3-203
3-204	B	826	0.94		3-204
3-205	D	1,868	2.07	3-205	3-205
3-206	A	882	1.00	3-206	
3-301	CL	1,114	1.26	3-301	
3-302	BL	1,065	1.21	3-302	
3-303	BL	1,065	1.21	3-303	
3-304	BL	1,065	1.21	3-304	
3-306	AL	1,122	1.27	3-306	
4-101	AP	840	0.95		4-101
4-102	BP	826	0.94		4-102
4-103	BP	826	0.94		4-103
4-104	BP	826	0.94		4-104
4-105	BP	826	0.94		4-105
4-106	CP	840	0.95		4-106
4-201	A	882	1.00		4-201
4-202	B	826	0.94		4-202
4-203	B	826	0.94		4-203
4-204	B	826	0.94		4-204
4-205	B	826	0.94		4-205
4-206	C	874	0.99		4-206
4-301	AL	1,122	1.27		4-301
4-302	BL	1,065	1.21		4-302
4-303	BL	1,065	1.21		4-303
4-304	BL	1,065	1.21		4-304

* Including lanai

<u>Apt. No.</u>	<u>Type</u>	<u>Approx. Gross Area*</u>	<u>Percentage Common Interest</u>	<u>Parking Stall No.</u>	
				<u>Covered</u>	<u>Uncovered</u>
4-305	BL	1,065 sq.ft.	1.21%		4-305
4-306	CL	1,114	1.26		4-306
5-101	C	840	0.95		5-101
5-102	B	826	0.94		5-102
5-103	B	826	0.94		5-103
5-104	B	826	0.94		5-104
5-105	B	826	0.94		5-105
5-106	B	826	0.94		5-106
5-107	B	826	0.94		5-107
5-108	A	840	0.95		5-108
5-201	C	874	0.99	5-201	
5-202	B	826	0.94	5-202	
5-203	B	826	0.94		5-203
5-204	B	826	0.94		5-204
5-205	B	826	0.94		5-205
5-206	B	826	0.94		5-206
5-207	B	826	0.94	5-207	
5-208	A	882	1.00	5-208	
5-301	CL	1,114	1.26	5-301	
5-302	BL	1,065	1.21	5-302	
5-303	BL	1,065	1.21	5-303	
5-304	BL	1,065	1.21	5-304	
5-305	BL	1,065	1.21	5-305	
5-306	BL	1,065	1.21	5-306	
5-307	BL	1,065	1.21	5-307	
5-308	AL	1,122	1.27	5-308	

* Including lanai