

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 POLO BEACH CLUB
Wailea Alanui and Kenolio-Makena Road
Honuaulu, Maui, Hawaii

REGISTRATION NO. 1279

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: April 9, 1980
Expires: May 9, 1981

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 MARCH 27, 1980, AND INFORMATION SUBSEQUENTLY FILED AS OF APRIL 7, 1980. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF THE INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT SET FORTH IN CHAPTER 514A, HAWAII REVISED STATUTES.

1. THE POLO BEACH CLUB is a proposed fee simple condominium project consisting of 71 apartments contained in an eight-story building with basement, and amenities such as a swimming pool, a jacuzzi, an office building, underground parking facility containing 73 standard size parking stalls, 17 uncovered surface parking stalls for compact cars, two loading spaces and landscaping.

2. This Preliminary Public Report is made a part of the registration on THE POLO BEACH CLUB condominium project. The Developer is responsible for placing this Preliminary Public Report (yellow paper stock) and a copy of the Disclosure Abstract in the hands of all purchasers and prospective purchasers and for securing a signed Receipt therefor.

3. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this condominium project and the issuance of this Preliminary Public Report.

4. The basic documents (Declaration of Horizontal Property Regime, with Bylaws of the Association of Apartment Owners attached, and a copy of the Floor Plans) have not yet been executed nor filed in the office of the recording officers.

5. The Developer has advised the Commission that advertising and promotional matter required to be filed pursuant to the rules and regulations promulgated by the Commission will be submitted prior to public dissemination.

6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

7. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, April 9, 1980, unless a Final or Supplementary Public Report issues, or the Commission, upon the review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE POLO BEACH CLUB

LOCATION: The project will be located on a 2.353 acre parcel at the westerly intersection of Wailea Alanui and Kenolio-Makena Road, Honuaulu, County of Maui, State of Hawaii.

TAX MAP KEY: 2-1-11:1 & 2

ZONING: H-M Hotel District

DEVELOPER: DM Development Company, a Texas limited partnership authorized to do business in the State of Hawaii, with offices at West Maui Center, 910 Honoapiilani Highway, Lahaina, Maui, and whose post office address is P. O. Box 434, Lahaina, Maui, HI 96761, and whose telephone number is (808) 661-3903. The Sole General Partner of DM Development Company is William B. Moffett, whose address is as hereinabove set forth.

ATTORNEY REPRESENTING DEVELOPER: Hong and Iwai (Attention: Donald K. Iwai), 2300 Pacific Trade Center, 190 South King Street, Honolulu, HI 96813; Telephone 524-4900.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the project will consist of the following:

1. The Land. Said land in fee simple will be submitted to the horizontal property regime.

2. The Building. The Project will have one 8-story residential apartment building with basement as shown on the plans thereof on file with the Commission (herein "Plans"). The apartment building will be a "V" shaped structure with the base at the seaward or westerly side of the Land and the two wings extending eastward. The basement will contain access corridors to the underground parking facility, elevators, electrical, mechanical and equipment rooms as shown on said Plans. The apartment building will contain seventy-one (71) apartment spaces. The principal materials to be used for the construction of the building will be concrete blocks for load bearing walls, gypsum boards for non-load bearing walls, concrete floors, wooden entry doors and door frames and aluminum frames for glass doors and windows.

3. Other Improvements. The Project will also consist of other improvements, including an office building, a swimming pool, a jacuzzi, underground parking facility containing seventy-three (73) standard size parking stalls, seventeen (17) uncovered surface parking stalls for compact cars, two loading spaces and landscaping. The purchaser or prospective purchaser is advised that the Developer may construct and install a sewage treatment plant as part of the project for the disposal of sewage.

4. Apartment Spaces.

(a) There will be seventy-one (71) separately designated freehold estates consisting of the residential spaces or areas hereinbelow more particularly described and contained in said building, said spaces being defined and referred to herein as "apartment spaces." An apartment space shall not be deemed to include the perimeter or party walls or the interior load-bearing walls or the floors and ceilings surrounding the apartment space (except in each such case for the interior decorated or finished surfaces of such perimeter or party walls, load-bearing walls, floors and ceilings), or any pipes, wires, conduits, or other utility or service lines running through such apartment space which are utilized for or serve more than one apartment space, the same being deemed common elements as hereinafter provided. Each apartment space shall be deemed to include (i) all walls and partitions which are not load-bearing within its perimeter or party walls, (ii) the interior decorated or finished surfaces of all perimeter or party walls and load-bearing walls, floors and ceilings, the exterior unfinished surfaces of entry doors and the frames thereof and all floor coverings, (iii) all windows and window frames, (iv) all lanai spaces within the surfaces of windows and unfinished surfaces of doors, lanai walls and other walls surrounding the lanai, the lanai floors and lanai ceilings, if any, and (v) all fixtures originally contained or installed in each apartment space.

(b) The apartment space number, location, description, approximate gross floor area and other pertinent data relative to the respective apartment spaces are as follows:

(i) Apartment Space Numbering and Location. The apartment spaces in the building will be numbered serially 01 to 09, inclusive, preceded by a number indicating the floor on which the apartment space is located, except that on the first floor of the building there will be an opening at the seaward or westerly end of the building between the two wings and there will be no apartment space bearing number 105. The sequence of the apartment space numbers will run clockwise, starting from the eastern end of the south wing of the building. By the foregoing numbering system all apartment spaces bearing apartment space numbers with the same last two numbers will be in vertical alignment in the building.

(ii) Types of Apartment Spaces and Description. The apartment spaces will be classified into seven (7) types and designated as Types A-1, A-2, B-1, B-2, C-1, C-2 and D. Hereinafter all of the rooms or areas in an apartment space, including without limitation, the bedrooms, bathrooms, kitchen, living room, dining room, entry, and other areas, except the lanais, are referred to as the "living area." The description, gross floor area, the number and location of the different types of apartment spaces are set forth hereinafter.

Type A-1 Apartment Spaces. Type A-1 apartment spaces will contain a living/dining room, a kitchen, two bedrooms, two bathrooms, an entry, a living room lanai (which will also be directly accessible from the master bedroom) and a bedroom lanai. Type A-1 apartment spaces will have a gross floor area of 1,441 square feet, consisting of a living area of 1,238 square feet and a living room lanai of 162 square feet and a bedroom lanai of 41 square feet. There will be eight (8) Type A-1 apartment spaces. One Type A-1 apartment space will be located on each of the first through the eighth floors at the eastern end of the south wing of the building.

Type A-2 Apartment Spaces. Type A-2 apartment spaces will have the same floor plan and gross floor area as Type A-1 apartment spaces, except that the floor plan will be the reverse or opposite hand of the Type A-1 apartment spaces. There will be eight (8) Type A-2 apartment spaces. One Type A-2 apartment space will be located on each of the first through the eighth floors at the eastern end of the north wing of the building.

Type B-1 Apartment Spaces. Type B-1 apartment spaces will contain a living/dining room, a kitchen, two bedrooms, two bathrooms, an entry and a lanai. The Type B-1 apartment spaces will contain a gross floor area of 1,348 square feet, consisting of a living area of 1,186 square feet and a lanai area of 162 square feet. There will be sixteen (16) Type B-1 apartment spaces. Two Type B-1 apartment spaces will be located on each of the first through the eighth floors at about the center section of the south wing of the building.

Type B-2 Apartment Spaces. Type B-2 apartment spaces will have the same floor plan and gross floor area as Type B-1

apartment spaces, except that the floor plan will be the reverse or opposite hand of the Type B-1 apartment spaces. There will be sixteen (16) Type B-2 apartment spaces. Two Type B-2 apartment spaces will be located on the first through the eighth floors at about the center section of the north wing of the building.

Type C-1 Apartment Spaces. Type C-1 apartment spaces will contain a living/dining room, a kitchen, two bedrooms, two bathrooms, an entry and a lanai. Type C-1 apartment spaces will have a gross floor area of 1,421 square feet consisting of a living area of 1,236 square feet and a lanai of 185 square feet. There will be eight (8) Type C-1 apartment spaces. One Type C-1 apartment space will be located on each of the first through the eighth floors at the western or seaward end of the south wing of the building.

Type C-2 Apartment Spaces. Type C-2 apartment spaces will have the same floor plan and gross floor areas as Type C-1 apartment spaces, except that the floor plan will be the reverse or opposite hand of the Type C-1 apartment spaces. There will be eight (8) Type C-2 apartment spaces. One Type C-2 apartment space will be located on each of the first through the eighth floors at the western or seaward end of the north wing of the building.

Type D Apartment Spaces. Type D apartment spaces will contain a living/dining room, a kitchen, two bedrooms, an entry and a lanai. Type D apartment spaces will have a gross floor area of 1,549 square feet, consisting of a living area of 1,321 square feet and a lanai area of 228 square feet. There will be seven (7) Type D apartment spaces. One Type D apartment space will be located on each of the second through the eighth floors at the western or seaward end of the building, between the Type C-1 and Type C-2 apartment spaces.

The gross floor areas of the apartment spaces hereinabove set forth are approximate. The approximate gross floor area of each apartment space as set forth above includes the space within the interior surfaces of the perimeter walls of the apartment space, the center line of the party walls, all chases, partitions and walls within the perimeter and party walls, whether load bearing or non-load bearing, the interior face of doors and door frames, and the lanais. The lanai areas are also approximate. The approximate area of a lanai as hereinabove set forth includes the space within the exterior face of the lanai walls (or where there is no lanai wall as in the case of a ground floor apartment space, the edge of the concrete lanai floor) and the walls of the apartment surrounding the lanai.

(iii) Access to Common Elements. Each of the apartment spaces will have direct access to the grounds of the Project or to a balcony leading to elevators and stairways which lead to the grounds of the Project. The balconies, elevators, stairways and the grounds are common elements.

COMMON ELEMENTS: Said proposed Declaration designates one freehold estate consisting of the remaining portion and appurtenances of the project, being the common areas and facilities and herein referred to as "common elements." The common elements will include, but will not be limited to, the following:

(a) The Land in fee simple;

(b) All foundations, beams, floor, slabs, supports, perimeter and party walls, load bearing walls, floors and ceilings (except for the inner decorated or finished surfaces of the perimeter and party walls, load bearing walls, floors, and ceilings within each apartment space and except as expressly provided otherwise), roofs and stairways of the building;

(c) All areas, structures or facilities of the Project, within or outside of the building, which are for common use or which serve more than one apartment space, such as electrical rooms, machine, mechanical and equipment rooms, hallways, walkways and common ways, planters, landscaping, yards, swimming pool, jacuzzi, the office building and facilities therein, fences, retaining walls, refuse collection areas, parking structure and parking stalls;

(d) All central and appurtenant installations serving more than one apartment space for power, light, gas, water, ventilation, refuse, telephone, radio and television signal distributions and all pipes, wires, conduits, ducts, vents and other service utility lines which serve more than one apartment space;

(e) All tanks, pumps, motors, fans and in general, all apparatus and installations for common use, and all other parts of the project necessary or convenient to its existence, maintenance or safety and normally in common use;

(f) All other parts of the project, which are not included in the definition of an apartment space.

LIMITED COMMON ELEMENTS: Certain of the common elements are designated in said proposed Declaration as "limited common elements" and are set aside and reserved for the use of certain apartment spaces. Such apartment spaces shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and so reserved are as follows:

(a) Mailboxes. The mailbox assigned to an apartment space shall be limited to the use of such apartment space;

(b) Other. All other common elements of the project which are rationally related to less than all of the apartment spaces shall be limited to the use of such apartment space.

Note: All parking stalls are designated as common elements and there will be no assignment of one or more parking stalls to any apartment.

INTEREST TO BE CONVEYED PURCHASER: The interest to be conveyed to a purchaser will be a fee simple title in and to an apartment and an undivided interest in all common elements of the project. Each apartment shall have appurtenant thereto an undivided interest in all common elements of the project in the proportion as hereinafter set forth and the same proportionate share in all common

profits and expenses of the project and for all other purpose, including voting:

<u>Apartment Type</u>	<u>Apartment Number</u>	<u>% Common Interest Per Apartment</u>
A-1	101, 201, 301, 401, 501, 601, 701, 801	1.444306
A-2	109, 209, 309, 409, 509, 609, 709, 809	1.444306
B-1	102, 103, 202, 203, 302, 303, 402, 403, 502, 503, 602, 603, 702, 703, 802, 803	1.351094
B-2	107, 108, 207, 208, 307, 308, 407, 408, 507, 508, 607, 608, 707, 708, 807, 808	1.351094
C-1	104, 204, 304, 404, 504, 604, 704, 804	1.424261
C-2	106, 206, 306, 406, 506, 606, 706, 806	1.424261
D	205, 305, 405, 505, 605, 705, 805	1.552560

PURPOSE AND USE OF THE APARTMENTS: (a) The purpose for which the apartments is intended and restricted as to use is residential as set forth in the proposed Declaration. The proposed Declaration recites that the residential apartments shall be occupied and used only as dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and for no other purpose. The owners of the respective apartments shall have the right to lease or rent such apartments for profit to such persons, including transients, and for such periods as such owners may determine so long as such leasing or renting is for use of such apartment as a dwelling and not as a place to conduct business or trade. The proposed Declaration does not prohibit the leasing, renting or selling of undivided interest in residential apartments for time sharing purposes or under any time sharing plan or arrangement.

The proposed House Rules contains certain prohibitions regarding apartment use, common areas, parking, rentals, refuse, pets, and swimming pool. For instance, only one pet is allowed per apartment and the approval of the Board of Directors is required before any dog may be kept in an apartment. Purchasers are urged to review the House Rules submitted to the Commission with care respecting the above matters.

OWNERSHIP: A Commitment for Title Insurance issued by First American Title Company of Hawaii, Inc., on March 18, 1980, states that title to the land committed to the project is vested in the Estate of Elizabeth B. Locke, Deceased. On September 29, 1979, Hawaiian Trust Company, Limited, representing the estate of

the decedent owner, entered into a DROA for the sale of subject parcel to the Developer subject to certain conditions which prospective purchasers are invited to review. A copy of said DROA is on file at the Real Estate Commission.

ENCUMBRANCES AGAINST TITLE: The aforementioned Commitment for Title Insurance identifies the following encumbrances on the land:

(a) An exception as to any portion of the land lying below the line of high water, as said high-water line is or may be defined by the Statutes of the State of Hawaii or by a court judgment, provided that the State of Hawaii was a party to the litigation.

(b) As to any portion of the land bordering on the ocean, the location of the seaward boundary in accordance with the laws of the State of Hawaii, and shoreline setback line in accordance with County regulation and/or ordinance.

(c) Real property taxes as may be due and owing. For further information, check with the Tax Assessor, Second Division.

Although not noted in the afore-mentioned Commitment for Title Insurance, the Developer has advised that it will make the following exception and reservation as to the land:

EXCEPTING AND RESERVING unto the Developer any and all easements as may hereafter be required to serve the project, and EXCEPTING AND RESERVING, FURTHER, all easements and/or rights of way now or hereafter granted or required by the Developer to construct, install, operate, maintain, repair and replace a sewer treatment plant and lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to grant to any public utility or governmental authority such easements, rights, and rights-of-way; provided that such easements hereafter to be granted or required shall not unreasonably interfere with the use and aesthetic enjoyment of the project.

PURCHASE MONEY HANDLING: An Escrow Agreement dated March 13, 1980, has been executed and a copy of same has been filed with the Commission. The Escrow Agent is First American Title Company of Hawaii, Inc. Upon examination, the specimen Reservation, Deposit, Receipt And Sales Contract and the executed Escrow Agreement are found to be consonant with Chapter 514A, Hawaii Revised Statutes, and particularly Sections 514A-40, 514A-39, and 514A-63 through 66.

Among other provisions, the specimen Reservation, Deposit, Receipt And Sales Contract includes the following:

1. Reservation And Sales Contracts 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.

2. 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.

3. The Seller may cancel the Reservation And Sales Contract if the Purchaser's application for eligibility for a mortgage loan is rejected or not approved within forty-five (45) days after application.

4. The Purchaser will pay for the following closing costs: costs of credit reports, acknowledgments of Purchaser's signature on the Apartment Deed, drafting of Purchaser's mortgage and acknowledgments thereon, mortgage insurance premiums, financing and other fees in connection with Purchaser's mortgage, search of title and title insurance, all recording fees except recording fees for documents to clear Seller's title and one-half of the escrow fees.

5. The Purchaser agrees to subordinate his interest under the Reservation, Deposit, Receipt And Sales Contract and in and to the apartment to the lien of any construction mortgage made by the Seller to finance the cost of the development and construction of the project.

6. The Purchaser agrees that the Seller shall have the right to conduct construction activities for the completion of the improvements and correction of defects in the project, and such rights shall continue until 24 months after the later of (i) the date of the recording in the Bureau of Conveyances of the State of Hawaii of the first conveyance of an apartment to a purchaser, or (ii) "substantial completion" (as the term is used in Chapter 507, Part II, Hawaii Revised Statutes) of the improvements to be completed or corrected.

7. Purchaser further agrees that Seller shall have and the Seller reserves the right to conduct sales activities on the Project, including the use of model apartment units, sales offices, signs and extensive sales displays and activities, and the use of ten parking spaces in the Project for parking for prospective purchasers, until the earlier to occur of (i) 24 months from the recording of the first conveyance of an apartment to a purchaser, or (ii) the sale of the last unsold apartment in the Project.

The prospective purchaser's attention is directed particularly to the provision in the Reservation And Sales Contract which states:

(a) THAT SELLER AND ITS AGENT HAVE NO PROGRAM AT THIS TIME NOR IS ANY PROGRAM PLANNED OR CONTEMPLATED TO OFFER A RENTAL SERVICE OF ANY KIND TO THE OWNERS OF APARTMENTS IN THE PROJECT, EITHER INDIVIDUALLY OR IN ANY FORM OF POOLING ARRANGEMENT, OR BY A THIRD-PARTY DESIGNATED OR ARRANGED FOR BY SELLER, NOR HAVE ANY REPRESENTATIONS BEEN MADE BY SELLER OR ITS AGENT AS TO THE FEASIBILITY OF RENTING THE APARTMENT, OR OTHERWISE GENERATING INCOME OR DERIVING ANY OTHER ECONOMIC BENEFIT FROM OWNERSHIP OF THE APARTMENT.

(b) THAT SELLER AND ITS AGENT HAVE MADE NO REPRESENTATIONS (NOR IS ANYONE AUTHORIZED TO DO SO) CONTRARY TO THIS PARAGRAPH WITH RESPECT TO EITHER BENEFITS TO BE DERIVED FROM THE RENTALS OR OTHER TAX TREATMENT OF ANY PURCHASER OF AN APARTMENT, EXCEPT AS TO THE AVAILABILITY OF INCOME TAX DEDUCTION FOR MORTGAGE INTEREST PAYMENTS AND REAL ESTATE TAXES.

The foregoing are only excerpts from certain paragraphs in the Reservation, Deposit, Receipt And Sales Contract. It is incumbent upon the prospective purchaser that he reads with care the entire Reservation, Deposit, Receipt And Sales Contract and the executed Escrow Agreement. The latter Agreement establishes how the proceeds from the sale of condominium units are placed in trust as well as the retention and disbursement of said funds.

Among other provisions, the Escrow Agreement provides that, the escrow shall deposit any or all funds received and held in escrow in federally-insured savings and loan institutions or federally-insured banking institutions designated by Seller, or may use such funds for the purchase of federal time certificates. Any and all interest earned on such funds during the holding thereof shall accrue to the credit of the Seller in accordance with the agreements and instructions contained in the Reservation And Sales Contracts. The Purchaser, however, shall be entitled to interest on purchaser's funds payable by the Seller at the same rate as the Seller shall have earned on funds held by escrow in accordance with the terms of the Reservation, Deposit, Receipt And Sales Contracts.

MANAGEMENT AND OPERATIONS: The Bylaws of the Association of Owners vest the Board of Directors with the powers and duties necessary for the administration of the affairs of the project. The Developer proposes to designate Management Consultants of Hawaii, Inc., a Hawaii corporation, as its initial managing agent; however, the Developer reports that a management agreement has not yet been executed.

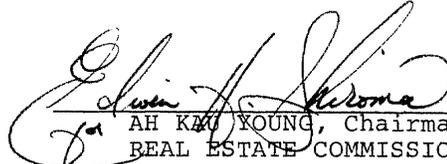
FINANCING OF PROJECT: Developer has advised the Commission that the cost of the Project will be paid by means of an interim construction loan, equity funds, and to the extent permitted by law and after meeting all statutory requirements, purchasers' funds. The Developer has advised the Commission that discussions with lending institutions have begun for the necessary construction and permanent financing, but that no commitments have been obtained as yet.

STATUS OF PROJECT: The Developer has advised the Commission that the preparation of the construction drawings of the project is now in progress. The estimated date for commencement of construction is July 1, 1980, and the approximate completion date is January 15, 1982 (assuming the project starts on time).

The purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted March 27, 1980, and information subsequently filed as of April 7, 1980.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1279 filed with the Commission on March 27, 1980.

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


AH KAO YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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Planning Department, County of Maui
Federal Housing Administration
Escrow Agent

REGISTRATION NO. 1279

DATED: April 9, 1980