

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

KANOE APARTMENTS
2050 Kanoe Street
Kihei, Maui, Hawaii

REGISTRATION NO. 1325

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: November 6, 1980

Expires: December 6, 1981

SPECIAL ATTENTION

A comprehensive reading of this report by the prospective buyer is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED JUNE 13, 1980 AND INFORMATION SUBSEQUENTLY SUBMITTED AS OF OCTOBER 31, 1980. THE DEVELOPER, IN 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 KANOE APARTMENTS is a proposed fee simple condominium project consisting of eighteen (18) apartment units in one (1) two-story building. There will be one parking stall for each apartment and five (5) uncovered guest stalls. Buyers will receive an apartment deed granting a fee simple interest directly from the Developer.
2. The Developer of the project has filed all documents and material deemed necessary by the Commission for the registration of this proposed condominium project and issuance of this Preliminary Public Report.

3. The Developer reports that the Declaration of Horizontal Property Regime, Bylaws of the Association of Apartment Owners and Condominium will be filed in the office of the recording officer immediately prior to the application for a final public report.
4. 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 exposure.
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 of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration of KANOE APARTMENTS condominium project. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) and the Disclosure Abstract in the hands of all purchasers and prospective purchasers and obtaining a receipt therefor.
7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, November 6, 1980, unless a Final or Supplementary Public Report issues, or the Commission upon review of registration issues an order extending the effective period of this report.

NAME OF PROJECT: KANOE APARTMENTS

LOCATION: The site, comprising approximately 23,229 sq. feet, is located at Kamaole (Kihei), Kula, Maui, Hawaii.

TAX MAP KEY: 3-9-17;17 (Second Division)

ZONING: A-1 Apartment District

DEVELOPER: KANOE DEVELOPMENTS, INC., a Hawaii corporation, 33 Lono Avenue, Suite 470, Kahului, Maui, Hawaii 96732; Telephone: (808) 877-3980; Officers: Herman Lehner, President/Vice President/Treasurer, Robert E. Rowland, Secretary.

ATTORNEY REPRESENTING OWNER: Case, Kay & Lynch (Attention: William W. L. Yuen, Esq.), Suite 1100, 165 South King Street, P.O. Box 494, Honolulu, Hawaii 96809, Telephone: (808) 536-7261.

DESCRIPTION: The proposed Declaration indicates that the project contains 18 apartments in one two-story building with open, uncovered parking and a swimming pool, pool deck, and other recreational facilities. The project and the apartments are more specifically described in Exhibit "A" attached hereto.

Each apartment shall be deemed to include all 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, fixtures contained or originally installed therein. The apartments shall not be deemed to include the perimeter walls or interior load bearing walls or the floors and ceilings surrounding each apartment (except in each case for the interior decorated or finished surfaces of the perimeter walls,

interior load bearing walls, floors or ceilings), any pipes, wires, conduits or other utility lines running through an apartment which are utilized for or serve more than one apartment, the foundations and supports for the structure; the same being deemed common elements as hereinafter provided.

COMMON ELEMENTS: The remaining portions of the project are designated as "common elements," including specifically but not limited to:

- a. The land in fee simple.
- b. All foundations, columns, girders, beams, floor slabs, supports, perimeter walls, load bearing walls, floors, ceilings (except the inner or decorated surfaces of the perimeter walls, load bearing walls, floors and ceilings) and the roof.
- c. All grounds, gardens, planters, plants, refuse facilities, driveways, walkways, parking areas (including five unmarked parking stalls marked "Guest Parking"), mail boxes, equipment rooms, swimming pool and other recreational facilities.
- d. All tanks, pumps, motors, fans, compressors and other equipment and installations for common use or benefit.
- e. All ducts, pipes, wiring, electrical and other central and appurtenant transmission facilities and installations which serve more than one apartment for services such as electrical power, water, sewer, telephone and television signal distribution.
- f. Any and all other parts of the property, apparatus and installations for common use or necessary or convenient to the project's existence, maintenance or safety and normally in common use and all elements mentioned in the Act actually constructed on the land described herein.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, designated "limited common elements," are 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. Eighteen of the twenty-three uncovered parking stalls shall be numbered 101 through 109 and 201 through 209. Each apartment shall have the exclusive right to use the parking stall having the same number as the apartment as shown on the proposed Condominium File Plan.
- b. Each apartment shall have appurtenant to it the exclusive right to use a mail box in the mail facilities located as shown on the proposed Condominium File Plan.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided interest in all the common elements of the project (called the "common interest") and the same proportionate share in the common expenses of the project as set forth in Exhibit "B" attached hereto. Interests in each apartment will be conveyed to each buyer under an Apartment Deed.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments shall be occupied and used as private residences in accordance with applicable laws.

The Project Rules state, in part: (1) Occupancy is limited to not more than two (2) persons per bedroom contained in each apartment, except that this occupancy may be exceeded by members of the immediate family of the owner, tenant or lessee, provided that in no event shall the number of occupants be more than three (3) per bedroom; (2) The only pets permitted on the premises are dogs, cats, fish and small birds; and (3) no waterbeds shall be permitted in the apartments.

OWNERSHIP OF TITLE: A Preliminary Title Report dated April 29, 1980, issued by Title Guaranty of Hawaii, Inc. states that the fee simple title to the land is held by the Developer, Kanoe Developments, Inc..

ENCUMBRANCES AGAINST TITLE: Said Title Report of April 29, 1980 identifies the following encumbrances on the land committed to the project:

1. For any taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the Second Division.
2. Mortgage dated March 20, 1980, made by Kanoe Developments, Inc., a Hawaii corporation, as Mortgagor, in favor of John C. Allen and Sherrille M. Allen, husband and wife, as tenants by the entirety, as Mortgagee, recorded in the Bureau of Conveyances of Hawaii in Liber 14613, Page 750.
3. Agreement dated January 8, 1980, between County of Maui, Department of Water Supply and Kanoe Developments, Inc. recorded as aforesaid in Liber 14651, Page 785. NOTE: Said Agreement, a copy of which has been furnished the Commission, stated among other things that an adequate water supply may not be available to serve the project and that the County's processing of a building permit shall not be a basis for reliance on final approval.

By letter dated October 3, 1980, the developer, through its attorney, has represented that there has been no change in title or encumbrances since April 29, 1980.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated May 12, 1980, identifies Title Guaranty Escrow Services, Inc., a Hawaii corporation, as Escrow Agent. On examination the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Section 514A-37, Section 514A-39 and Sections 514A-63 through Section 514A-66. A prospective purchaser should carefully examine the form of Sales Contract and the Escrow Agreement to determine the time for and the amount of the installment payments on the purchase price and his obligations to pay the closing costs. It is incumbent upon the purchaser to read and understand the Escrow Agreement before signing the Sales Contract since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's down payments and the Sales Contract provides that the purchaser approves the Escrow Agreement. Among other provisions the executed Escrow Agreement states that no

money received by Escrow Agent shall be disbursed until the Seller has a valid and binding contract for the sale of the unit for which money was received and the requirements of Sections 514A-39, 514A-63, 514A-64 and 514A-66 have been met, all as provided in Section 514A-65, Hawaii Revised Statutes. The Escrow Agreement and specimen sales contract provide that money received by Escrow Agent may be disbursed by Escrow Agent prior to the date of completion of the project, to pay the costs of developing and building the project under conditions stated in the Escrow Agreement.

According to the specimen Deposit Receipt and Sales Contract, in the event that less than five (5) apartments in the project are sold prior to construction and to the time that Developer has valid and binding agreements, Developer may, at its option terminate all sales agreements, refund Buyers all monies paid without interest and be relieved and released from any past and future liabilities.

The specimen Sales Contract also states: (1) All of Buyer's right, title and interest under the Sales Agreement are and shall be subject and subordinate to the lien of any mortgages or other security instruments made by Developer to any institutional lender for the purpose of securing the repayment of a construction loan; and (2) In the event development and construction of the project are delayed due to governmental restrictions or regulations enacted after the date of any Sales Agreement, which delay results in excessive developmental cost or by occurrence of a contingency, the non-occurrence of which was the basic assumption of any agreement entered, then in such event, Developer may at its option, terminate the Sales Agreement, refund all monies (except escrow cancellation fee) and be released of all liabilities under the Sales Contract; (3) Developer makes no warranties, expressed or implied, with respect to the Property or the Apartment or any common elements or anything installed therein, including but not limited to warranties of merchantability or fitness for a particular purpose; (4) Buyer understands that no water meter of any size other than a temporary construction meter shall be issued for the project until the acceptance by the County of Maui and satisfactory operation of the Central Maui Water Transmission Source and Pipeline projects. Buyer agrees that if such acceptance and operation does not occur prior to commencement of construction, Developer at its option may terminate the Sales Contract and cause Buyer's monies to be refunded without interest. If Developer proceeds with construction, Buyer agrees to accept the apartment at closing notwithstanding that a water meter for the project is not available at that time; and (5) Buyer acknowledges that the project may be located in a potential tsunami inundation area and a floodplain, and therefore may be subject to periodic flooding.

The Sales Contract, among other things, contains acknowledgments by each buyer: (i) that the Developer will not sponsor, arrange or promote any program for the rental or temporary use and occupancy of apartments in the Project other than apartments owned by the Developer upon completion of the Project, if any; (ii) that the buyer must make any such arrangements for his apartment, if desired, without the involvement or participation of the Developer; (iii) that the Developer has not authorized agents, salesmen or brokers to make any representations as to rental or other income from any apartment or any other economic benefit, including possible advantages from the ownership of an apartment under

federal or state tax laws, to be derived from the purchase of an apartment in the Project; (iv) that the buyer acknowledges that no such representations or warranties have been made and that the Developer expressly disclaims and repudiates any representation from any source as to any possible economic benefit arising from ownership of an apartment in the Project; and (v) that until the Developer closes the sales of all the apartments in the Project, the buyer shall not enter into any agreement with any purchaser, lessee or owner of another apartment in the Project or any third party under which the buyer agrees to share rental income from apartments in the Project.

It is incumbent upon the purchaser and prospective purchaser to read with care and to understand the Escrow Agreement and Sales Agreement as both agreements provide for the benefits and obligations therein outlined.

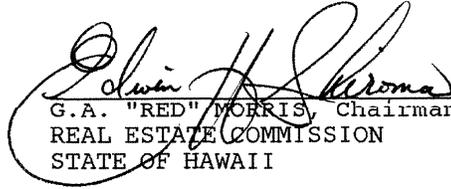
MANAGEMENT OF THE PROJECT: The proposed Declaration of Horizontal Property Regime provides that the operation of the property shall be conducted by a responsible entity as managing agent. The initial managing agent will be Oihana Property Management and Sales, Inc.. Though a contract has not yet been executed, a proposed form has been submitted to the Commission.

STATUS OF PROJECT: The Maui County Planning Commission granted a Special Management Area Permit and Compact Car Parking Approval for the project on October 16, 1979. The letter granting said approval noted that it was conditioned on, among other things, commencement of construction of the project within 12 months, and compliance with other requirements, including a Department of Water Supply letter dated September 26, 1979. A copy of the October 16, 1979 approval letter has been furnished the Commission and is available for inspection. The Developer has not selected a contractor to construct the project and is currently in the process of arranging construction financing. The estimated date for commencement of construction is October, 1980, and the estimated completion date is April, 1981.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted June 12, 1980 and information subsequently submitted as of October 31, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1325 filed with the Commission on June 12, 1980.

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

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

Distribution:

DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, COUNTY OF MAUI
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 1325

November 6, 1980

EXHIBIT "A"

PHYSICAL DESCRIPTION

- A. PROJECT: The project consists of eighteen (18) separate condominium apartments in one two-story apartment building as shown on the proposed Condominium File Plan. The building is to be constructed principally of concrete, stucco, wood, sheetrock, glass and related building materials. There will be one uncovered parking stall assigned to each apartment and there will be five unassigned uncovered compact parking stalls marked "Guest Parking". The project includes a swimming pool, landscaping and a finished basement. The entries to the buildings are from the parking lot on the northern side of the building. The living areas of the apartments generally face either toward wailea or the ocean.
- B. APARTMENTS: Each apartment is a one-bedroom apartment which contains a bathroom, kitchen, livingroom, one bedroom, entry-hallway, laundry closet and lanai, all on the same level. Each apartment is either a type "A", "B" or "C" apartment, depending upon the area of the apartment and the arrangement of the different room within the apartment. Each apartment is identically furnished with a built-in range with oven below, hood and fan, refrigerator, disposal, drapes, carpeting, dishwasher, water heater and washer/dryer. The apartments will be numbered as follows: The first floor apartments shall be numbered 101 through 109, beginning with the apartment nearest Kanoe Street as No. 101 (being the east corner of the project), and proceeding in ascending order away from Kanoe Street as shown on the Condominium File Plan. The second floor apartments shall be numbered 201 through 209, beginning with the apartment nearest Kanoe Street as No. 201 and proceeding in ascending order away from Kanoe Street as shown on the Condominium File Plan. The types of apartments are described as follows:
- (1) Type "A". The type "A" apartment contains an approximate total apartment floor area of 541.2 square feet, a covered lanai of 18 square feet, for a total apartment floor area of 559.2 square feet. The type "A" apartments are located on both the first and second floors. The type "A" apartments on each floor are identical, with one exception, the type "A" apartment on the first floor contains an additional uncovered lanai of approximately 30 square feet.
- (2) Type "B". The type "B" apartment contains an approximate total apartment floor area of 523.1 square feet, a covered lanai of 15 square feet, for a total apartment floor area of 538.1 square feet. The type "B" apartments are located on both the first and second floors. The type "B" apartments on each floor are identical, with one exception, the type "B" apartment on the first floor contains an additional uncovered lanai of approximately 25 square feet.
- (3) Type "C". The type "C" apartment contains an approximate total apartment floor area of 588.3 square feet, a covered lanai of 18 square feet, for a total apartment floor area of 606.3 square feet. The type "C" apartments are located on both the first and second floors. The type "C" apartments on each floor are identical, with one exception, the type "C" apartment on the first floor contains an additional uncovered lanai of approximately 30 square feet.

End of Exhibit A

EXHIBIT "B"

COMMON INTERESTS

The apartment type and the undivided interests in the common elements appurtenant to each apartment are set forth below. Common interests have been based on approximate apartment square footages. The following common interests shall be valid and effective, whether or not the Developer's calculations of such interests are accurate or mathematically correct:

<u>Apartment Type</u>	<u>Apartment Number</u>	<u>Apartment Floor Area (S.F.)</u>	<u>Enclosed Lanai Floor Area (S.F.)</u>	<u>Total Apartment Floor Area (S.F.)</u>	<u>Total Undivided Interest (Percentage)</u>
A	101	541.2	18	559.2	5.597
B	102	523.1	15	538.1	5.386
B	103	523.1	15	538.1	5.386
A	104	541.2	18	559.2	5.597
C	105	588.3	18	606.3	6.068
A	106	541.2	18	559.2	5.597
B	107	523.1	15	538.1	5.386
B	108	523.1	15	538.1	5.386
A	109	541.2	18	559.2	5.597
A	201	541.2	18	559.2	5.597
B	202	523.1	15	538.1	5.386
B	203	523.1	15	538.1	5.386
A	204	541.2	18	559.2	5.597
C	205	588.3	18	606.3	6.068
A	206	541.2	18	559.2	5.597
B	207	523.1	15	538.1	5.386
B	208	523.1	15	538.1	5.386
C	209	541.2	18	559.2	5.597

End of Exhibit B