

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

KONA WEST
Kuakini Highway
Kailua-Kona, Hawaii
REGISTRATION NO. 1328

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: September 12, 1980
Expires: October 12, 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 JULY 3, 1980 AND INFORMATION SUBSEQUENTLY FILED AS OF AUGUST 4, 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.

1. The "KONA WEST" condominium project is a proposed leasehold condominium which will consist of a three (3)-story building containing a total of thirty-six (36) residential apartments. Forty-five (45) parking spaces are available as shown on the plans for the Project, as unassigned stalls.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this proposed condominium project and the issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved floor plans) have not yet been recorded in the office of the recording officer.
4. No advertising and promotional materials have been filed pursuant to the rules and regulations promulgated by the Commission.
5. Purchasers or prospective purchasers are advised to acquaint themselves with the provisions of Chapter 514A, Hawaii Revised Statutes, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration of KONA WEST condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) and Disclosure Statement in the hands of all purchasers and prospective purchasers. Securing a signed receipt therefor from all purchasers and prospective purchasers is also the responsibility of the Developer.
7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, September 12, 1980 unless a Final or Supplementary Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: KONA WEST

LOCATION: The approximately 27,123 square feet of land to be submitted to the regime is situate at Kailua-Kona, County of Hawaii, State of Hawaii.

TAX KEY: Third Division, 7-5-06-29 (parcel first) and 7-5-06-31 (parcel second)

ZONING: V.75 (Resort, Hotel)

DEVELOPER: KONA SUN ASSOCIATES, a registered Hawaii limited partnership, whose principal place of business and post office address is 500 Hakaka Place, Honolulu, Hawaii 96816. Telephone number: (808)735-2244. The general partner of Kona Sun Associates is Kona Star, Inc., a Hawaii corporation, whose principal place of business and post office address is 500 Hakaka Place, Honolulu, Hawaii. The President and Treasurer of Kona Star, Inc., is Victor K. B. Young, and the Vice President and Secretary is Betty H. Young. The Board of Directors consists of Victor K. B. Young and Betty H. Young.

ATTORNEY REPRESENTING DEVELOPER: Mukai, Ichiki, Raffetto & MacMillan (Attention: Wesley Y. S. Chang and Franklin K. Mukai), 345 Queen Street, Suite 800, Honolulu, Hawaii. Telephone number: (808)531-6277.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal Property Regime describes the Project as follows:

1. Description of Project. The Project will consist of a three-story building with a parking basement containing a total of thirty-six (36) studio apartments (hereinafter referred to as "apartments"). The building will be constructed principally of wood, concrete, concrete block, gypsum board, glass, steel, aluminum and related building materials on a post and block foundation. There will be forty-five (45) parking stalls, twelve (12) of which are located in the basement.

2. Description of Apartments. Freehold estates are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the thirty-six (36) studio apartments of the Project.

Each apartment has been designated by a three-digit number. The first digit indicates the floor on which the apartment is situate in its building, and the second and third digits indicate the location of the apartment on the floor. As viewed from the parking lot of the Project, each apartment is situated so that the numbers of the apartments progressively ascend in a right to left fashion.

The location, living area, lanai area and common interest of each of the apartments are as follows:

<u>Apt. No.</u>	<u>Living Area (Sq. Ft.)</u>	<u>Lanai Area (Sq. Ft.)</u>	<u>Percentage Common Interest</u>
101	338.00	72.075	2.777778%
102*	338.00	65.00	2.777778%
103*	338.00	65.00	2.777778%
104	338.00	118.24	2.777778%
105*	338.00	65.00	2.777778%
106	338.00	112.58	2.777778%
107*	338.00	65.00	2.777778%
108	338.00	112.58	2.777778%
109	338.00	65.00	2.777778%
110	338.00	112.58	2.777778%
111	338.00	65.00	2.777778%
112	338.00	65.00	2.777778%

201	338.00	72.075	2.777778%
202	338.00	65.00	2.777778%
203	338.00	65.00	2.777778%
204	338.00	118.24	2.777778%
205	338.00	65.00	2.777778%
206	338.00	112.58	2.777778%
207	338.00	65.00	2.777778%
208	338.00	112.58	2.777778%
209	338.00	65.00	2.777778%
210	338.00	112.58	2.777778%
211	338.00	65.00	2.777778%
212	338.00	65.00	2.777778%
301	338.00	72.075	2.777778%
302	338.00	65.00	2.777778%
303	338.00	65.00	2.777778%
304	338.00	118.24	2.777778%
305	338.00	65.00	2.777778%
306	338.00	112.58	2.777778%
307	338.00	65.00	2.777778%
308	338.00	112.58	2.777778%
309	338.00	65.00	2.777778%
310	338.00	112.58	2.777778%
311	338.00	65.00	2.777778%
312	338.00	65.00	2.777778%

* Denotes handicap units (four (4) total)

Units 102, 103, 105 and 107 on the ground floor of the Project have been designated as handicap units and as such have wider doorways and more clearance room in the bathrooms to accommodate wheelchairs, walkers and the like. In addition, there is a ramp with a handrail located on the southeast side of the Building leading from the grounds of the Project to the ground floor apartments.

Subject to minor variations in their respective floor plans, each of the Project's studio apartments will contain two (2) rooms consisting of a kitchenette/living/sleeping room and a bathroom.

Notwithstanding the designation of the limits of the respective apartments in paragraph 3 hereinbelow, all areas set forth hereinabove were computed by measuring from the outside of exterior walls and from the center line of interior party walls, and no reduction has been made to account for interior walls, ducts, shafts and the like located within the perimeter walls. The approximate living areas set forth above do not include lanais or other areas not fully enclosed.

3. Limits of Apartments. The proposed Declaration states that the respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or the interior load-bearing walls, the floors and ceilings surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the

same being deemed common elements as hereinafter provided. The respective apartments shall also not be deemed to include the adjacent lanai, the same being deemed a limited common element as hereinafter provided. Subject to the foregoing, each apartment shall be deemed to include all of the walls and partitions which are not load-bearing within its perimeter or party walls, any glass windows or panels within its perimeter, the inner decorated or finished surfaces of all walls, floors and ceilings and any fixtures and appliances originally installed therein.

4. Access. Each apartment has immediate access to a corridor running the length of the Building providing access to a stairway leading to the grounds and parking areas of the Project. In addition, there is a ramp with a handrail situated on the southeast side of the Building leading to the ground floor of the Project.

COMMON ELEMENTS: The proposed Declaration states that one freehold estate is designated in all of the remaining portions of the Project (herein referred to as the "common elements"), which shall include the limited common elements described below and all portions of the land and improvements other than the apartments, including the buildings, the land on which the buildings are located and all common elements mentioned in the Horizontal Property Act which are actually constructed on the land described in the Declaration. Said common elements shall include, but shall not be limited to:

- (a) The land upon which the Project is situate.
- (b) All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls (except for the inner decorated surfaces within each apartment), roofs, stairways, walkways, entrances and exits of said buildings.
- (c) The office, lobby, waiting and reception areas on the ground floor of the Project.
- (d) Swimming pool and swimming pool filtration system.
- (e) All yards, grounds, landscaping, refuse and like facilities.
- (f) All driveways and loading areas, all parking area entryways and exitways, and the forty-five (45) parking stalls of the Project, as shown on the Condominium Map, none of which are assigned to individual apartments.
- (g) All central and appurtenant installations for services such as power, lights, telephone, gas, hot and cold water lines, television lines, sewage disposal and other utilities (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in apartments), and all tanks, pumps, motors, fans, ducts and other apparatus and installations existing for, or in the buildings for common use.

(h) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, and normally in common use and which are not part of any apartment.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that certain parts of the common elements, called and designated "limited common elements," are set aside and reserved for the exclusive use of certain Apartments in the Project, and said Apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The only limited common element so set aside and reserved is as follows:

Each apartment shall have appurtenant to and for the exclusive use of such apartment the lanai immediately adjacent to said apartment.

All costs of every kind pertaining to each limited common element, including but not limited to costs of maintenance, repair, replacements, additions and improvements, shall be charged to and borne entirely by the owner of the apartment to which it is appurtenant.

Notwithstanding the foregoing, in the event that the Board of Directors has reason to believe that any apartment is consuming commonly metered utilities in excess of its percentage undivided interest, then the Board of Directors, in its sole discretion, may measure such consumption, if feasible, and if the same is in excess of said percentage interest, then and in such event, the Board of Directors may assess and charge the costs for the excess consumption against the apartment in question and the same shall for all purposes be deemed to be a common expense of such apartment.

INTEREST TO BE CONVEYED TO PURCHASERS: The Developer shall, by means of an apartment lease, convey the apartment and the undivided percentage interest in the common elements (not including the land) appurtenant thereto. The percentage interest appurtenant to each apartment is set forth hereinabove under the heading "Description of Project" and shall be the same proportionate share in all common profits and expenses of the Project, and for all other purposes including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests and may be utilized for long-term or transient rentals, including vacation and transient rentals, but specifically excluding timesharing. Subject to the foregoing limitations, the owners of the respective apartments shall have the absolute right to rent or lease the same subject to the limitations, restrictions, covenants and conditions of the Declaration.

Among other provisions, the House Rules provide that: (1) no livestock, poultry, rabbits, or other animals whatsoever shall be allowed or kept in any part of the Project, without the

prior written consent of the Board; (2) each owner will abide by the Rules and Regulations for the swimming pool and other recreational facilities which are a part of the Project; and (3) waterbeds are expressly prohibited in the Project.

NOTE: Purchasers and prospective purchasers of apartments should be specifically informed that all apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and strictly comply with not only the provisions of the Declaration of Horizontal Property Regime, the By-Laws of the Association, and all agreements, decisions and determinations of the Association (including the House Rules for the Project). Purchasers and prospective purchasers are therefore advised to read and fully understand the Declaration of Horizontal Property Regime, the By-Laws of the Association of Apartment Owners, and the House Rules prior to executing any Sales Contract for the Project.

OWNERSHIP OF TITLE: A preliminary title report dated September 5, 1980, issued by Security Title Corporation, indicates that title to the land is vested in Kalikookalani Burgess Chun, wife of Richard Leland Scott Seymour, Ihilani Burgess Staton, wife of Ronald Gene Staton, and Kalikookalani Burgess Chun, Trustee for Kaliko Mary Adams Burgess, formerly known as Kaliko Burgess Chun, also known as Kaliko Mary Adams Burgess Chun, under that certain unrecorded Inter Vivos Trust Agreement dated July 7, 1979.

ENCUMBRANCES AGAINST TITLE: Said preliminary title report dated September 5, 1980, reports that title to the land is subject to the following:

1. Real property taxes that might be due and owing. (For more information, reference is made to the Office of the Tax Assessor, Third Division.)
2. The reservation of mineral and metallic mines in favor of the State of Hawaii (Parcel Second only).
3. Final Order of Condemnation dated January 13, 1964, made in the matter entitled COUNTY OF HAWAII, a municipal corporation, Plaintiff, vs. HENRY F. AKONA, ET AL., Defendants, filed in the Circuit Court of the Third Circuit State of Hawaii, under Civil No. 875, a certified copy of which was recorded on July 20, 1964, in the Bureau of Conveyances of the State of Hawaii in Liber 4794 at Page 524. Re: Parcel Line J-13, condemned for public use of the County of Hawaii "Kailua-Kona Sewerage System" containing an area of 467 square feet (as to Parcel First).
4. The terms and provisions of that certain Lease dated October 12, 1979, filed in the Office of the Assistant

Registrar of the Land Court of the State of Hawaii as Document No. 979155, and also recorded on November 20, 1979, in said Bureau in Liber 14185 at Page 549, made by and between KALIKOOKALANI BURGESS CHUN, wife of Richard Leland Scott Seymour; IHILANI BURGESS STATON, wife of Ronald Gene Staton; and KALIKOOKALANI BURGESS CHUN, as Trustee for Kaliko Mary Adams Burgess, formerly known as Kaliko Burgess Chun, also known as Kaliko Mary Adams Burgess Chun, under that certain unrecorded Inter Vivos Trust Agreement dated July 7, 1979, with power to sell, lease, hypothecate or otherwise convey all of the property included in the trust estate, as Lessor, to VICTOR KWAI BEU YOUNG, husband of Betty Higashi Young, as Lessee, for a term of fifty-six (56) years commencing on November 1, 1979, and terminating on November 1, 2035. Said Lease is now held by KONA SUN ASSOCIATES, a registered Hawaii Limited Partnership, as Lessee, by Assignment of Lease dated January 29, 1980, filed in said Office of the Assistant Registrar as Document No. 996811 and also recorded in said Bureau in Liber 14498 at Page 671. Consent thereto filed as Document No. 996812 and also recorded in Liber 14498 at Page 677.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated June 23, 1980, identifies Security Title Corporation, a Hawaii corporation, as the escrow agent. Upon examination, the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly Sections 514A-39, 514A-40 and Sections 514A-63 through 514A-66.

Among other provisions, the Escrow Agreement and Sales Contract provide that a purchaser under a Sales Contract shall be entitled to a return of his funds, without interest, less an escrow cancellation fee of \$25.00 and less the cost of any credit report, long distance telephone charges and other like incidental expenses reasonably incurred on behalf of the purchaser, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow to return to purchaser the funds of purchaser then being held by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to rescind the Sales Contract pursuant to the right of cancellation stated therein.

(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 requiring approval of a county officer having jurisdiction over the issuance of building permits except such changes as are specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or to which said purchaser has otherwise consented in writing or ninety (90) days have elapsed since the purchaser has accepted in writing the apartment or he 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, unless a copy of the final report is delivered to the Purchaser either personally or by registered or certified mail with return receipt requested and at the same time the Purchaser is notified in writing of his right of refund and cancellation of obligation and the waiver of such right upon his failure to act within a thirty-day period and the Purchaser fails to exercise his right of refund and cancellation of obligation within thirty days from the date of delivery of the final report.

The Escrow Agreement provides that upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from a purchaser upon the occurrence of an event described in (c), (d) or (e) above, Escrow will pay said funds to said purchaser and thereupon the Sales Contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held under the Escrow Agreement; provided, however, that no refund shall be made to a purchaser at a purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

The specimen Deposit Receipt and Sales Contract also states that the Buyer will pay at the time of closing all closing costs, including, but not limited to, the cost of drafting of the Apartment Lease, all conveyance taxes, all other closing costs or loan origination charges, credit reports, escrow fees, costs of drafting all documents, notary and recording fees, and the cost of any title insurance policy, title report, certificate of title or lien letter. The Buyer shall, at the closing, also prepay maintenance fees for a period of two (2) months and any real property taxes and/or insurance premiums to the extent required by any first mortgage lender.

NOTE: PROSPECTIVE PURCHASERS SHOULD BE AWARE THAT THE SALES CONTRACT PROVIDES THAT THE SELLER'S MORTGAGE LOAN (CONSTRUCTION, RENEWALS AND EXTENSIONS) FOR THE PROJECT SHALL BE AND REMAIN AT ALL TIMES A LIEN ON THE PROJECT SUPERIOR TO ANY LIEN OR CHARGE ON THE PROJECT ARISING FROM PURCHASERS' SALES CONTRACTS OR RESERVATION AGREEMENTS, AND PURCHASERS INTENTIONALLY WAIVE, RELINQUISH AND SUBORDINATE THE PRIORITY OF LIEN UNDER THE SALES CONTRACT OR ANY OTHER PRIOR RESERVATION AGREEMENT IN FAVOR OF SUCH MORTGAGE LOAN. ADDITIONALLY, PROSPECTIVE PURCHASERS SHOULD BE AWARE THAT THE SALES CONTRACT GIVES THE DEVELOPER THE RIGHT TO CANCEL THE CONTRACT IF LESS THAN FIFTEEN (15) OF THE THIRTY-SIX (36) RESIDENTIAL APARTMENTS OF THE PROJECT ARE SOLD PRIOR TO OCTOBER 1, 1980, IN WHICH EVENT SELLER SHALL CAUSE ESCROW TO REFUND TO BUYER ALL MONIES PAID BY BUYER WITHOUT INTEREST. UPON TENDER OF SUCH REFUND TO BUYER, NEITHER PARTY SHALL HAVE ANY FURTHER LIABILITY UNDER SUCH SALES CONTRACT. FURTHERMORE, THE SALES CONTRACT PROVIDES THAT THE BUYER ACKNOWLEDGES THAT SELLER MAKES NO WARRANTIES,

EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT OR COMMON ELEMENT OR ANYTHING INSTALLED THEREIN. SELLER MERELY ASSIGNS ALL WARRANTIES CONNECTED WITH THE DEVELOPMENT OF THE PROJECT, INCLUDING MANUFACTURER'S OR DEALER'S WARRANTIES CONNECTED WITH FURNISHINGS AND APPLIANCES INSTALLED IN THE PROJECT.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement as well as the Deposit Receipt and Sales Contract before executing the Deposit Receipt and Sales Contract, since the Escrow Agreement describes the procedure for receiving and disbursing purchasers' funds, and the Deposit Receipt and Sales Contract specifically provides that the Purchaser approves the Escrow Agreement and assumes the benefit and obligations therein provided.

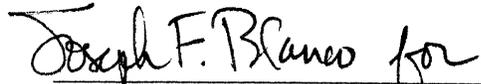
MANAGEMENT AND OPERATIONS: The By-Laws, which are incorporated in the Declaration, provide that the operation of the project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws, although the Declaration permits the Developer to appoint the initial Managing Agent. The Developer contemplates appointing Aaron M. Chaney, Inc., whose address is at Suite 104, 75-5722 Kuakini Highway, Kailua-Kona, Hawaii 96740, as the initial Managing Agent.

STATUS OF PROJECT: Construction of the Project has not yet commenced; however, it is expected that the construction of the Project will commence on September 15, 1980 and be completed on or about April 15, 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 July 3, 1980, and subsequently filed as of August 4, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1328 filed with the Commission on July 3, 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.


G. A. "RED" MORRIS, Chairman
Real Estate Commission
State of Hawaii

Distribution:

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

Registration No. 1328

September 12, 1980