

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

KONA BY THE SEA

75-6106 Alii Drive
Kailua-Kona, Hawaii

REGISTRATION NO. 1334

Issued: April 30, 1982
Expires: December 16, 1982

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

It was prepared as a supplement to an earlier Report dated August 4, 1980 and June 16, 1981 issued by the Real Estate Commission on the above project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project until

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

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 15, 1980 AND INFORMATION SUBSEQUENTLY FILED AS OF APRIL 28, 1982. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report on KONA BY THE SEA, Registration No. 1334, dated August 4, 1980, and Final Public Report dated June 16, 1981, the Developer reports that changes have been made in the information as presented in the aforementioned reports. This Supplementary

Public Report amends the Preliminary Public Report and the Final Public Report becoming a part of the KONA BY THE SEA registration. The Developer is responsible for placing a true copy of this Supplementary Public Report (pink paper stock), Preliminary Public Report (yellow paper stock), Final Public Report (white paper stock) and Updated Disclosure Abstract in the hands of all purchasers and prospective purchasers and for securing a signed copy of the receipt therefor.

2. The Developer of the project has submitted to the Commission for examination all documents necessary for the registration of a condominium project and issuance of this Supplementary Public Report.
3. The Developer reports that the First Amendment to Bylaws of the Association of Apartment Owners of Kona By The Sea has been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15802 at Page 210. The Second Amendment to the Declaration of Horizontal Property Regime has been recorded in Liber 16289 at Page 101.
4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
5. This Supplementary Public Report automatically expires on December 16, 1982, unless a further Supplementary Public Report issues, or the Commission, upon review of this registration, issues an order extending the effective date of this report.

The information under the topical headings of the Preliminary Public Report issued August 4, 1980 and the Final Public Report issued June 16, 1981 have not changed except for the information under the following headings:

COMMON ELEMENTS:

The Declaration and By-Laws have been amended to provide for the possible use of certain portions of the common element to the exclusion of other uses, including (a) the use of the recreation room to serve beverages and light meals, open only to purchasers, their guests and guests of the rental program; (b) the security room to be used by the manager of the rental program. Additionally, the common elements of the Project shall at all times be subject to use by the operator of any limited partnership, rental pool arrangement in which apartments in the Project participate,

including all rental services such as maid, bellman, laundry, linen and room services, the daily arrival, registration, accommodation and departure of guests at all hours and all other incidental activities thereto.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE:

Subject to County zoning and use regulations, the Declaration has been amended to provide that the owners of the respective apartments shall have the right to sell, lease, rent or otherwise transfer such apartments subject to the provisions of the Horizontal Property Act, the Declaration and the By-Laws attached thereto; provided, however, that apartment owners who do not join Kona By The Sea Partners, a Hawaii limited partnership (described below), shall not lease or rent their apartments for periods of less than thirty (30) days, and apartment owners who join Kona By The Sea Partners will be subject to limitations on the personal use of their units as contained in the Kona By The Sea Partners Partnership Agreement.

The Declaration and the By-Laws have been amended to provide for the possible commercial use of certain portions of the common elements.

ENCUMBRANCES AGAINST TITLE:

A Preliminary Report dated March 15, 1982 issued by Title Guaranty of Hawaii, Incorporated, states that title to the property is subject to the following encumbrances:

1. Real property taxes due and payable, reference is made to Tax Assessor, County of Hawaii.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. 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.
4. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

MORTGAGOR: HASEGAWA KOMUTEN (USA), INC.,
a Hawaii corporation

MORTGAGEE: AMERICAN SAVINGS AND LOAN ASSOCIATION,
a Utah corporation

DATED: March 31, 1981

RECORDED: Liber 15454 Page 591

AMOUNT: \$5,000,000.00

5. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Horizontal Property Regime dated April 30, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15522 at Page 272, and the By-Laws attached

thereto, as the same are or may hereafter be amended in accordance with law, said Declaration or said By-Laws. (Project covered by Condominium Map No. 804 recorded in said Bureau of Conveyances.) Said Declaration was amended by instrument dated September 3, 1981, recorded in Liber 15802 at Page 210.

By CONSENT OF LIEN HOLDER AND SUBORDINATION AGREEMENT dated ---- (acknowledged May 15, 1981, recorded in Liber 15549 at Page 132, AMERICAN SAVINGS AND LOAN ASSOCIATION, a Utah corporation, consents to the foregoing Declaration of Horizontal Property Regime and subordinates that certain Mortgage, Security Agreement and Financing Statement dated March 31, 1981, recorded in Liber 15454 at Page 591, to the lien of said Declaration.

6. Easement (10 feet wide) for pedestrian and access purposes as shown on Condominium File Plan No. 804 and as set forth in Declaration of Horizontal Property Regime dated April 30, 1981, recorded in Liber 15522 at Page 272, as amended.
7. Four (4) on-site public parking stalls as shown on Condominium File Plan No. 804 and as set forth in Declaration of Horizontal Property Regime dated April 30, 1981, recorded in Liber 15522 at Page 272, as amended.

MANAGEMENT AND OPERATION:

The Developer, on behalf of the Association of Apartment Owners of Kona By The Sea, has entered into a management contract effective as of November 30, 1981, with Hotel Corporation of the Pacific, Inc., a Hawaii corporation, whose principal place of business and mailing address is 2299 Kuhio Avenue, Honolulu, Hawaii 96815 and whose telephone number is (808) 922-6023. The management contract with Chaney, Brooks & Company has been terminated.

Purchasers should be aware that the Disclosure Abstract for the Project has been updated and the budget for the Project has been amended. The Updated Disclosure Abstract provides that the Developer shall assume all the actual common expenses of the Project and the apartment owners shall not be obligated to pay for their respective share of the common expenses, until the Developer files an Amended Disclosure Abstract with the Commission. The Amended Disclosure Abstract will provide that after a certain date, which shall be on or before December 31, 1982, the apartment owners shall be obligated to pay for their respective share of the common expenses allocated to their apartments, regardless whether or not their apartments are in the Rental Program as provided below.

NOTE: Purchasers should be aware that renters of apartments in the Rental Program may utilize the common elements more intensively than non-renters, without incurring higher maintenance fees than non-renters.

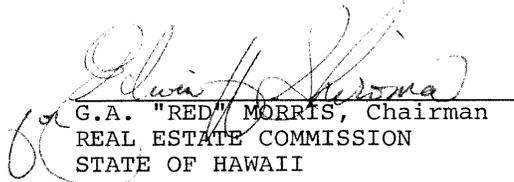
SPECIAL NOTATION:

The Developer on December 8, 1981, has registered with the Securities and Exchange Commission, an arrangement to enable purchasers to elect to join Kona By The Sea Partners, a Hawaii limited partnership (the "Partnership") which will operate a Rental Program in the Project. A Rental Management Agreement, effective as of November 30, 1981 has been executed by both the Partnership and the Hotel Corporation of the Pacific, a Hawaii corporation, as Operator, to provide for the operation of the residential apartments committed to the Rental Program.

The Partnership will be dissolved at such time as an entire year has passed in which there is no Rental Management Contract in effect. Purchasers will receive a copy of the Registration Statement for the Partnership as filed with the Securities and Exchange Commission.

The purchaser and prospective purchasers should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted July 15, 1980, and additional information subsequently filed as of April 28, 1982.

This SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1334 filed with the Commission on July 15, 1980. The report, when reproduced, shall be a true copy of the Commission's Public Report. Paper stock used in making facsimiles must be pink.


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

DISTRIBUTION:

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

Registration No. 1334

Dated: April 30, 1982