

# 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

WAIMEA TOWN PLAZA  
Mamaloa Highway  
Kamuela, Hawaii 96743

REGISTRATION NO. 1366

### 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 18, 1981

Expires: October 18, 1982

#### SPECIAL ATTENTION

A comprehensive reading of this report by the prospective purchaser 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 FILED NOVEMBER 7, 1980 AND INFORMATION SUBSEQUENTLY FILED AS OF SEPTEMBER 11, 1981. 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. WAIMEA TOWN PLAZA is a proposed fee simple condominium project consisting of two (2) two-story buildings, without basement, and comprising twenty (20) apartments to be used for office or residential units and forty six (46) parking stalls, of which twenty (20) stalls are designated limited common elements.

2. The Developer of the project has filed all documents and materials deemed necessary by the Commission 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 Bureau of Conveyances of the State of Hawaii.

4. No advertising and promotional matter has been filed pursuant to the rules and regulations promulgated by the Commission.

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

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, September 18, 1981, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. The Preliminary Public Report is made a part of the registration on WAIMEA TOWN PLAZA condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) with attached Disclosure Abstract in the hands of all purchasers and prospective purchasers. Securing a signed copy of the Receipt therefor from each such person is also the responsibility of the Developer.

NAME OF PROJECT: WAIMEA TOWN PLAZA

LOCATION: The approximately 45,000 square feet of land to be committed to the regime is situated at Kamuela, Hawaii.

TAX MAP KEY: THIRD DIVISION: TMK: 6-4-6-23

ZONING: CN 7.5

DEVELOPER: WAIMEA TOWN PLAZA PARTNERS, a Hawaii Limited Partnership, located at 190 Keawe Street, Suite 32, Hilo, Hawaii, Phone: 935-4851.

GENERAL PARTNERS: CHESTER M. CABRAL  
190 Keawe Street, Suite 32  
Hilo, Hawaii 96720

LEONARD A. NAGATA  
255 Kuikahi Street  
Hilo, Hawaii 96720

ATTORNEY REPRESENTING DEVELOPER: STEPHEN K. YAMASHIRO,  
192 Kapiolani Street, Hilo, Hawaii 96720, Phone: 961-3604.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicates a fee simple condominium project consisting of twenty (20) apartments to be used for office or residential units contained in two (2) two-story buildings, without basement, constructed principally of wood.

The buildings are designated as Buildings A and B. Apartments on the ground floor of Building A shall be designated as A101 through A105 inclusive. Apartments on the second floor of Building A shall be designated as A201 through A205. The apartments located on the ground floor of Building B shall be designated as B101 through B105 inclusive. Apartments on the second floor of Building B shall be designated as B210 through B205 inclusive.

Each apartment shall consist of three (3) rooms plus kitchen alcove and utility area. Apartments A105, A205, B105, and B205 shall be slightly larger than the typical apartment unit. Apartments A205 and B205 shall have a larger living room than A105 and B105. Upper level apartment units shall have sloped ceilings. The area of the various apartment units are as set forth in the Exhibit "A" attached hereto.

The apartment units have immediate access to the grounds of the project, or to a stairway leading to the grounds of the project.

The respective apartment units shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each apartment unit or any pipes, wires, conduits or other utility or service lines running through such apartment unit which are utilized for or serve more than one apartment unit, the same being deemed common elements as hereinafter provided. Each apartment unit shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, doors and door frames, windows and window frames, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

COMMON ELEMENTS: One (1) freehold estate is designated in all remaining portions of the project, herein called the "common elements", including specifically but not limited to:

1. The land in fee simple;
2. All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, stairways, walkways, entrances and exits of said buildings.

3. All yards, grounds, and landscaping;
4. All parking areas;
5. All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment unit for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any; and
6. 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, or normally in common use.

NOTE: (1) Each apartment unit is separately metered for electricity but water is included in the common element cost;

(2) The waste disposal system for the project is by way of a private treatment plant, and the operation and maintenance of the system shall be borne by the Association of Apartment Owners.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called the "limited common elements", are designated and set aside for the exclusive use of certain apartment units, and such apartment units shall have appurtenant thereto easements for the use of such limited common elements as follows: Apartment units A101 through 105, A201 through 205, B101 through 105, and B201 through 205 are assigned one (1) parking stall each, designated by the apartment unit number of the Condominium Map.

INTEREST TO BE CONVEYED TO PURCHASERS: Documents filed with the Real Estate Commission indicates that the purchaser will secure a Deed, demising an apartment unit and an undivided interest, as set forth in the Exhibit "A" attached hereto, in all common elements of the project and the same proportionate share of all common profits and expenses of the project and shall be used for all other purposes including voting.

EASEMENTS: 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, utility services for, and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements as provided herein; and in all other apartments and common elements in the building in which the apartment is located for support.

(b) If any common element, now or hereafter, encroaches upon any apartment, or if any apartment, now or hereafter, encroaches upon any other apartment or common element, a valid easement for such encroachment and the maintenance thereof, as long as it continues, does and shall exist. If a building or other improvements are partially or totally destroyed and then rebuilt, minor encroachments by any common element upon any apartment or by any apartment upon any other apartment due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

(c) The Association of Apartment Owners shall have the right, to be exercised by its Board of Directors or the Managing Agent, to enter each apartment from time to time during reasonable hours as may be appropriate for the operation of the project or at any time for making emergency repairs therein which may be necessary to prevent damage to any apartment or common element.

(d) Each apartment owner shall have an easement in common with the owners of all other apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other apartments or limited common elements and serving his apartment.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the apartment units shall be occupied and used for office or residential purposes only and for no other purpose.

The By-Laws provide, in part, that no livestock, poultry, rabbits, dogs, cats, or other animals whatsoever shall be allowed or kept in any part of the project.

OWNERSHIP OF TITLE: The Commitment for Title Insurance issued by First American Title Insurance Company, dated July 30, 1981, confirms that WAIMEA TOWN PLAZA PARTNERS, a Hawaii Limited Partnership, the Developer, is the fee owners of title to the land committed to the project.

ENCUMBRANCES AGAINST TITLE: A commitment letter for title insurance from First American Title Insurance Company, dated July 30, 1981, lists the encumbrances as follows:

(a) Mortgage from American Security Bank (\$45,000.00);

(b) For real property taxes due and payable, reference is made to Finance Director, County of Hawaii, Third Division.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement, dated August 18, 1980, between Security Title Corporation, as Escrow, and Developer has been filed with the Commission. On examination, the executed Escrow Agreement is found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended, and particularly 514A-37, 514A-39, 514A-40, and 514A-63 through 514A-66.

Among other provisions, the executed Escrow Agreement stated that a Purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said Purchaser, without interest and less Escrow's Twenty Five Dollar (\$25.00) cancellation fee, if Purchaser shall, in writing, request refund of his funds and any one of the following shall have occurred:

(a) Escrow receives a written request from Seller to return to Purchaser the funds of such Purchaser then held hereunder by Escrow; or

(b) If Purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the building plans, subsequent to the execution of Purchaser's contract, requiring the approval of the county officer having jurisdiction over the issuance of permits for construction, unless the Purchaser has given written approval or acceptance of the change, or ninety (90) days have elapsed since the Purchaser has accepted, in writing, the apartment unit or he has first occupied the apartment unit; or

(c) If the Purchaser's funds were obtained prior to the issuance of a Final Public Report and the Final Public Report differs in any material respect from the Preliminary Public Report, unless the Purchaser has given written approval or acceptance of the differences; or

(d) If the Final Public Report is not issued within one (1) year from the date of issuance of the Preliminary Public Report; provided that if the Final Public Report is issued after the one-year period and a copy of the Final Public Report is delivered to the Purchaser either personally or by registered or certified mail with return receipt requested, notwithstanding any law to the contrary, the Purchaser shall have thirty (30) days from the date of delivery to exercise his right of refund and cancellation of obligation, after which period such right shall be deemed waived; provided, further, that such waiver shall be effective only if, at the time the Purchaser receives a copy of the Final Public Report, he 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 the thirty-day period.

The speciman Sales Contract filed with the Commission contains, among others, the following provisions:

1. The construction contract with the general contractor for the project contains the following clause, which provides in pertinent part that:

"If, within one (1) year after the Date of Substantial Completion . . ., any of the work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition."

2. Seller makes no warranties itself, but Seller agrees that the assignment by Seller to Purchaser of any and all warranties given Seller by the General Contractor for the project, including the above described Contractor's agreement to promptly correct any of its work found to be defective or not in conformance with the Construction Contract for a period of one (1) year after the Date of Substantial Completion of the apartment unit as defined in the Construction Contract and the benefit of such agreement shall accrue to Purchaser on closing without further instruments or documents. Seller hereby agrees to cooperate with Purchaser during the effective period of such agreement in asserting any claims based thereon. Purchaser acknowledges and agrees that Seller is not adopting the contractor's warranty or acting as co-warrantor but is merely attempting to pass through to Purchaser the benefit of any such contractor's warranty, if any.

3. Seller shall also assign to Purchaser the unexpired term, if any, of any manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances in the apartment unit. Purchaser acknowledges that the Seller is only passing through to Purchaser any such manufacturer's or dealer's warranties; Seller is not undertaking to adopt any such warranties or to act as co-warrantor with respect to any furnishings, fixtures or appliances covered thereby. The terms of the manufacturer's or dealer's written warranties are available for the Purchaser's examination at the Seller's sales office.

Except for the agreements set forth above, it is expressly understood and agreed by and between Seller and Purchaser that SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT UNIT, CONSUMER PRODUCTS INSTALLED THEREIN, THE PROJECT OR ANYTHING INSTALLED THEREIN, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE APARTMENT UNIT FOR A PARTICULAR PURPOSE.

4. Notwithstanding any other provisions in the Sales Contract to the contrary, it is expressly understood and agreed that unless and until Seller: (i) obtains the issuance by the Real Estate Commission of the State of Hawaii of the Final Public Report on the project; and (ii) has received from Purchaser a fully executed receipt for the Final Public Report, that the Sales Contract shall represent only a reservation by the Purchaser and shall not be binding upon either party hereto, and until such time, the Sales Contract may be terminated at the option of either party. In the event of such termination, Seller shall cause Escrow to refund all payments previously made by Purchaser, without interest, and neither party shall have any other or further liability. If the Sales Contract is entered into after the issuance of the Final Public Report, this paragraph shall be of no force or effect and the Sales Contract shall be fully binding upon Purchaser and Seller upon acceptance of the Sales Contract by Seller as provided in Paragraph "F-23" of the Sales Contract.

5. Final closing shall occur on the Date of Closing. However, Purchaser is advised that Seller intends to preclose, regardless of the status of the construction of the apartment units, by having all documents necessary for closing executed prior thereto and deposited with Escrow, and Purchaser agrees to execute all necessary documents for such closing, including irrevocable escrow instructions, upon request by Seller.

6. In the event less than eighty (80%) percent of the total value of the apartment units are sold or reserved prior to August 1, 1982, Seller may at its option cancel the Sales Contract, refund to Buyers all monies paid in without interest and release itself from all further liabilities.

NOTE: PROSPECTIVE PURCHASERS SHOULD BE AWARE THAT THE SELLER'S MORTGAGE LOANS (CONSTRUCTION, RENEWALS AND EXTENSIONS) FOR THE PROJECT SHALL BE AND REMAIN AT ALL TIMES A SUPERIOR LIEN ON THE PROJECT, AND PURCHASERS INTENTIONALLY WAIVE AND SUBORDINATE THE PRIORITY OF LIEN UNDER THE SALES CONTRACT IN FAVOR OF THE MORTGAGE LOANS.

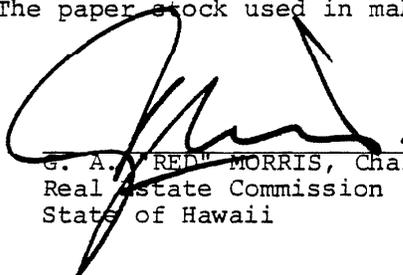
It is incumbent upon the purchaser and the prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of apartment units are placed in trusts, as well as the retention and disbursement of said trust funds. The speciman Sales Contract specifically provides that the purchaser approves said Escrow Agreement and assumes the benefits and obligations therein provided.

MANAGEMENT OF THE PROJECT: The By-Laws which are incorporated in the Declaration provide that the operation of the project shall be conducted for the Association of Apartment unit Owners under the direction of the Board of Directors by a responsible corporate managing agent. The Developer advises that it has appointed C. M. Cabral and Associates, Inc., whose address is 190 Keawe Street, Suite 32, Hilo, Hawaii, Phone: 935-4851, as the initial managing agent for the project.

STATUS OF PROJECT: The Developer advises that it estimates the construction of the project to be completed on or about August 2, 1982.

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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 November 7, 1980, and information subsequently filed as of September 11, 1981.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1366 filed with the Commission on November 7, 1980. This 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 Finance  
Bureau of Conveyances  
Planning Department, County of Hawaii  
Federal Housing Administration  
Escrow Agent

REGISTRATION NO. 1366

DATE: September 18, 1981

EXHIBIT "A"

AREA AND PERCENTAGE INTEREST OF EACH TYPE UNIT

<u>APARTMENT UNIT NO.</u>	<u>SQ. FT.</u>	<u>PERCENTAGE</u>
A101	693	4.81
A102	660	4.58
A103	660	4.58
A104	660	4.58
A105	840	5.83
A201	693	4.81
A202	660	4.58
A203	660	4.58
A204	660	4.58
A205	1018.50	7.07
Total Bldg. A	<u>7204.50</u>	<u>50.00</u>
B101	693	4.81
B102	660	4.58
B103	660	4.58
B104	660	4.58
B105	840	5.83
B201	693	4.81
B202	660	4.58
B203	660	4.58
B204	660	4.58
B205	1018.50	7.07
Total Bldg. B	<u>7204.50</u>	<u>50.00</u>

END OF EXHIBIT "A"

WAIMEA TOWN PLAZA

DISCLOSURE STATEMENT

NAMES AND ADDRESSES. The name of the Project is WAIMEA TOWN PLAZA, situated on the south side of Mamalahoa Highway - Kamamalu Street intersection, Puukapu Homesteads, 1st Series, Island, County and State of Hawaii. CHESTER CABRAL, a General Partner, is the developer, located at Suite 32, 190 Keawe Street, Hilo, Hawaii, telephone 935-4851. The project manager is C. M. CABRAL & ASSOCIATES, INC., whose address is Suite 32, 190 Keawe Street, Hilo, Hawaii, telephone 935-4851.

MAINTENANCE FEES. Monthly maintenance fees are estimated as follows:

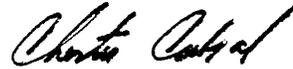
Electricity	\$100.00
Water/Sewer	50.00
Telephone	25.00
Refuse Disposal	75.00
Pest Control (interior & exterior)	100.00
Common Element Maintenance	750.00
Office	
Exterior Lights	
Parking Areas	
Supplies	
Tools	
Salaries (1 maintenance)	
Office Supplies	50.00
Benefits and taxes	420.00
Insurance (fire, liability, directors)	500.00
Professional Services (audit & legal)	140.00
Management Fees	140.00
General Reserve Fund	150.00
	<u>\$2,500.00</u>

<u>Budget</u>	<u>Number of Apartments</u>		<u>Average Monthly Maintenance Fee per Apartment</u>
\$2,500.00	÷ 20	=	\$125.00

WARRANTIES. Each of the apartments and all of the common elements have a one-year construction warranty which will begin when the Notice of Completion is published. During the warranty period every construction defect that is not attributable to normal wear and tear will be remedied at no charge.

USE OF APARTMENTS. This is a mixed-used project. It is an office or residential project and no apartments are proposed to be used for hotel purposes.

CHESTER CABRAL certifies that the schedule of maintenance fees for WAIMEA TOWN PLAZA was prepared according to accepted accounting principles.



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CHESTER CABRAL

Subscribed and sworn to before me this  
30th day of September, 1980.

Rue A. Ikenaka  
Notary Public, State of Hawaii  
My Commission Expires: 3/6/81

Receipt of this Disclosure Statement is  
acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

\_\_\_\_\_  
Buyer of Apartment No. \_\_\_\_\_