

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION

DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS

STATE OF HAWAII

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

PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

WHALERS COVE AT POIPU
Maulili and Puuholo Road
Koloa, Kauai, Hawaii

REGISTRATION NO. 1613

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 7, 1984

Expires: October 7, 1985

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 JUNE 22, 1984, AND INFORMATION SUBSEQUENTLY FILED AS OF SEPTEMBER 4, 1984. 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, AS AMENDED.

1. WHALERS COVE AT POIPU is a proposed fee simple condominium project consisting of forty-four (44) units in two, 4-story apartment buildings with 58 parking stalls, a sewage treatment plant, office and maintenance room, swimming pool and landscaped area.

2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for the issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, as Amended, By-Laws of the Association of Owners and a copy of the Condominium Map) have been submitted to the Commission for examination but have not yet been filed.
4. No advertising or promotional matter has been submitted 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 Chapter 514A, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to the Horizontal Property Regime.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, September 7, 1984, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of the registration on WHALERS COVE AT POIPU Condominium Project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed receipt therefor.

WHALERS COVE AT POIPU was previously registered as a condominium under the name of POIPU VILLAGE RESORT, Registration No. 988. Subsequent to its construction, "Hurricane Iwa" substantially destroyed the project beyond practical restoration to its original form. WHALERS COVE AT POIPU is a redevelopment by the new Limited Partnership. All of the information previously provided in the former registration will be amended in its entirety, and the information provided herein shall be substituted in place thereof.

NAME OF PROJECT: WHALERS COVE AT POIPU.

LOCATION: The 91,718 square foot property to be committed to the regime as a fee simple condominium project is situated at the junction of Puuholo Road and Maulili Road, Koloa, Kauai, Hawaii.

TAX MAP KEY: Fourth Division, 2-6-07-13 and 17.

ZONING: Parcel 17 - RR20, Parcel 13 - RR20 and Open.

DEVELOPER: PVR Associates, a Hawaii registered limited partnership, whose address is Suite 203A, 4334 Rice Street, Lihue, Kauai, Hawaii 96766, Telephone (808) 245-8585.

The general partner is:

Ventura Associates, Ltd., a Hawaii corporation,
Suite 203A, 4334 Rice Street
Lihue, Kauai, Hawaii 96766
Telephone (808) 245-8585

ATTORNEY REPRESENTING DEVELOPER: Hiroshi Sakai, Attorney at Law, A law Corporation, Suite 602, 810 Richards Street, Honolulu, Hawaii 96813, Telephone (808) 531-4171.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects the Project is to consist of two, four-story buildings without basement, having a total of 44 apartments, with an office and maintenance room together with 58 parking stalls, and amenities to be constructed thereon in accordance with plans and specifications prepared by Ware & Malcomb Architects, Inc., Registered Professional Architect.

The apartments in the Project consist of three basic types of apartments:

a. One-Bedroom Apartment. Each one-bedroom apartment contains a combined dining and living room, kitchen, one bedroom, one and one-half bathroom, and a closet together with a deck and storage room. The total living area of type 1A apartment is 946 square feet with a deck of 136 square feet. The total living area of Type 1B apartment is 906 square feet and a deck of 136 square feet.

b. Two-Bedroom Apartment. The two-bedroom apartments 2A through 2D inclusive contain a combined dining and living room, kitchen, two bedrooms, two bathrooms and a closet together with a deck and storage room. The total living area of the apartments are as follows: 2A is 1,254 square feet and a deck of 240 square feet; 2B is 1,224 square feet and a deck of 288 square feet; 2C is 1,204 square feet and a deck of 240 square feet and 2D is 1,164 square feet and a deck of 160 square feet. The two-bedroom Apartment 2E is a two level apartment with a dining-living room, kitchen and one-half bathroom together with a deck on the lower level and two bedrooms, two bathrooms and closet on the upper level with a 1,248 square feet living area and 160 square feet deck.

c. Three-Bedroom Apartment. The three-bedroom Apartment 3A is two level apartment with a dining-living room, kitchen, one bedroom, one bathroom, and storage together with a deck and closet on the lower level and two bedrooms, one bathroom and storage on the upper level with

a total living area of 1,500 square feet and 256 square feet of deck.

The floor area of an apartment is the net area and is measured from the interior surface of the apartment perimeter walls.

The number and location of the apartments are as shown on the Condominium Map:

a. First Floor

Type 1A Apartments: 112, 113, 116, 117, 212, 213

Type 2A Apartments: 111, 114, 115, 118, 119, 210, 211, 214

Type 2B Apartments: 110, 215

b. Second Floor

Type 1B Apartments: 122, 123, 126, 127, 222, 223

Type 2C Apartments: 121, 124, 125, 128, 129, 220, 221, 224

Type 2D Apartments: 120, 225

c. Third and Fourth Floors

Type 2E Apartments: 132, 133, 134, 135, 136, 137, 232, 233

Type 3A Apartments: 131, 138, 231, 234

Each of the apartments have access to the walkways, stairways and elevator to the ground floor, to the walkways, parking areas and to the street.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load bearing walls. The floors and ceilings surrounding each of them or any pipes, wires, conduits or other utility lines running through them which are utilized for or serve more than one unit are deemed common elements. Each apartment shall be deemed to include all the walls and partitions, floors and ceilings which are not load bearing within its perimeter walls including paint, wallpaper, or the like, carpeting, floor covering and built-in fixtures. Additionally, the boundary lines of each apartment are the exteriors of doors, windows, and glass walls and the frames thereof and the lanai.

COMMON ELEMENTS: The common elements include:

- a. The land in fee simple.

b. The foundations, floor slabs, columns, girders, beams, supports, bearing walls, roofs, entry landings and stairways in the building.

c. The yards, landscaping, sewage treatment plant, swimming pool and parking areas, including the 58 parking stalls.

d. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, hot and cold water and like utilities.

e. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

NOTE: The sewer treatment plant, being privately owned, will be maintained by the Association of Apartment Owners, including its operation, repair and replacement thereof.

LIMITED COMMON ELEMENTS: There are no limited common elements.

INTEREST TO BE CONVEYED TO THE PURCHASER: Each apartment shall have appurtenant thereto the following undivided interest in all the common elements of the Project for determination of the common profits, expenses, voting and for all other purposes:

<u>Type of Apartments</u>	<u>No. of Apartments</u>	<u>% Common Interest</u>	<u>Totals</u>
1A	6	1.8356	11.0136
1B	6	1.7580	10.5480
2A	8	2.4333	19.4664
2B	2	2.3752	4.7504
2C	8	2.3361	18.6888
2D	2	2.2588	4.5176
2E	8	2.4216	19.3728
3A	<u>4</u>	2.9106	<u>11.6424</u>
Total	44		100.0000

The percentage undivided interest is calculated by dividing an apartment's net living area by the sum of all the living areas of all the apartments.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The apartments shall be occupied and used as an apartment, resort, dwelling, or time sharing use for any time period or

periods including any annual recurring period on a fixed or floating basis by the respective owners thereof, their tenants, families, domestic servants and social guests, subject to such limitation as may be contained herein, the By Laws and the House Rules which may be adopted from time to time governing the use of the apartments. The parking stalls are intended and shall be used primarily for parking purposes subject to such limitations as may be contained herein or the By Laws and House Rules which may be adopted from time to time governing the use of the Project.

NOTE: Purchasers of units for time share purpose must additionally comply with requirements of Chapter 514E, Hawaii Revised Statutes, as amended, pertaining to Time Sharing Plans.

The House Rules provide, in part, that no livestock, poultry or other animals or pets whatsoever shall be allowed or kept in any part of the project without the prior written consent of the Board of Directors.

OWNERSHIP OF TITLE: A Preliminary Title Report issued on August 30, 1984 by Security Title Corporation certifies that the fee simple title to the land is vested in PVR Associates, the Developer.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report issued by Security Title Corporation on August 30, 1984 notes the following encumbrances against the property:

1. Condominium File Plan No. 588, filed in the Bureau of Conveyances of the State of Hawaii on January 4, 1979, as amended.

2. The covenants, agreements, obligations, conditions and other provisions set forth in that certain Declaration of HORIZONTAL PROPERTY REGIME OF POIPU VILLAGE RESORT dated December 14, 1978, recorded on January 4, 1979 in said Bureau of Conveyances in Book 13397, Page 126, and the By-Laws attached thereto.

a) By instrument dated June 29, 1979 recorded on July 9, 1979 in the Bureau of Conveyances of the State of Hawaii in Book 13830, Page 786, the foregoing Declaration was amended.

b) By instrument dated October 13, 1983, recorded on October 27, 1983 in said Bureau of Conveyances in Book 17413, Page 314, the foregoing Declaration was further amended.

3. The terms and provisions of those certain Apartment Deeds.

4. Any and all easements encumbering the apartments herein identified and described, and/or the common interest appurtenant thereto, as created by or mentioned in said

Declaration, as amended, and/or said Apartment Deeds and/or as delineated on said Condominium file Plan No. 588, as amended.

5. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent 6714.

6. As to that portion of the land bordering on the Ocean:

The effect of Sections 205-31 to 205-37, inclusive, Hawaii Revised Statutes, as now or hereafter amended pertaining to shoreline setbacks.

Any adverse claim based upon (a) a conflict in the determination of the seaward boundary of said land, (b) a conflict in the location of such seaward boundary, or (c) the assertion that any portion of said land is submerged land or is land beneath tidal waters.

7. Grant dated September 10, 1979, recorded on January 23, 1980 in said Bureau of Conveyances in Book 14433, Page 748, in favor of HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, and CITIZENS UTILITIES COMPANY, a Delaware corporation, a Right-of-Entry and temporary easement for construction and maintenance of power and communication lines.

8. The effect, if any, of that certain Quitclaim Deed dated effective the 28th day of September, 1979, recorded on October 2, 1979 in Liber 14037, Page 370, by and between the STATE OF HAWAII, as Grantor, and POIPU BEACH PARTNERS, a Hawaii limited partnership, as Grantee.

9. Undated Financing Statement covering all monies due from assessments directly or indirectly imposed by the Debtor, given as security by ASSOCIATION OF APARTMENT OWNERS OF POIPU VILLAGE RESORT in favor of STATE SAVINGS AND LOAN ASSOCIATION, recorded on August 8, 1983 in said Bureau of Conveyances in Book 17238, Page 445.

10. The terms and provisions of that certain Waiver and Indemnity Agreement dated July 25, 1983, made by and between THE ASSOCIATION OF APARTMENT OWNERS OF POIPU VILLAGE RESORT, as "Applicants" and THE COUNTY OF KAUAI, a political subdivision of the State of Hawaii, recorded on August 25, 1983 in said Bureau of Conveyances in Book 17276, Page 675.

11. As to Apartment No. 119:

a. Mortgage dated January 12, 1979, recorded on March 15, 1979 in said Bureau of Conveyances in Book 13548, Page 290, made by JODY BERNARD RICE, an unmarried man, and JOSEPH MICHAEL RICE, JR., an unmarried man, as Mortgagor(s), to STATE SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the State of Utah, as Mortgagee(s), to secure the repayment of the sum of \$30,400.00, any additional advances and other amounts

secured thereby, all according to the terms of that certain promissory note of said Mortgagor(s) therein referred to.

b. Mortgage dated December 12, 1978, recorded on March 15, 1979 in said Bureau of Conveyances in Book 13548, Page 302, made by JODY BERNARD RICE, unmarried, and JOSEPH MICHAEL RICE, JR., unmarried, as Mortgagor(s), to HAWAII THRIFT & LOAN, INCORPORATED, a Hawaii corporation, as Mortgagee(s), to secure the repayment of the sum of \$3,800.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said Mortgagor(s) therein referred to.

12. As to Apartment No. A-3:

a. Mortgage dated November 16, 1978, recorded on March 15, 1979 in said Bureau of Conveyances in Book 13549, Page 693, made by YOSHITO (NMN) KOBATAKE, unmarried, KELVIN KUNIO KOBATAKE, unmarried; MARIAN NOBUKO KOBATAKE, unmarried, and CLYDE SUNAO KOBATAKE and SARAH (NMN) KOBATAKE, husband and wife, as Mortgagor(s), to STATE SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the State of Utah, as Mortgagee(s), to secure the repayment of the sum of \$31,800.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said Mortgagor(s) therein referred to.

13. As to Apartment No. G-1:

a. Mortgage dated November 15, 1978, recorded on March 15, 1979 in said Bureau of Conveyances in Book 13549, Page 579, made by BRIAN H. ROSENE, unmarried, as Mortgagor(s), to STATE SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the State of Utah, as Mortgagor(s), to secure the repayment of the sum of \$31,600.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said Mortgagor(s) therein referred to.

14. For real property taxes due and payable, reference is made to Director of Finance, County of Kauai.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated June 6, 1984, certifies Security Title Corporation as escrow. On examination, the specimen Reservation Agreement, Sales Contract and Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. Among other things the Sales Contract specifies that the lien of any construction mortgage shall be superior to the right of a purchase under a Sales Contract.

The provisions of the executed Escrow Agreement as filed with the Commission provides that disbursement from the Escrow fund will be made by Escrow Agent upon the written

request of the Developer for the following purposes:

(a) To pay for construction costs of the buildings and other improvements and fixtures in such amount and at such times and in proportion to the valuation of the work completed by the contractor in accordance with the terms of the construction contract, as certified by a registered architect or professional engineer and as approved by Developer's mortgagee or a financially disinterested person who shall be designated in writing by the Developer and Developer's mortgagee, if any, who shall certify to Escrow in writing that he is financially disinterested (and Escrow shall have the right to rely on said certification).

(b) To other persons for architectural, engineering, finance, advertising and legal fees and other incidental expenses of the project (but not selling expenses or brokerage fees relating to sales of any apartments) to the extent approved by the Developer's mortgagee or said financially disinterested person.

(c) The balance of monies remaining in escrow shall be disbursed in accordance with the directions of the Developer and Developer's mortgagee or said financially disinterested person only upon completion of the buildings of the Project and when Escrow shall have received satisfactory evidence that all mechanics' and materialmen's liens have been cleared or sufficient funds have been set aside to cover claims if liens are filed; otherwise, forty-six (46) days after the filing of the affidavit of publication of notice of completion in the office of the Clerk of the Circuit Court where the Project is located, a copy of which shall have been delivered to Escrow; provided, further, that if any notice of mechanics' or materialmen's liens shall have been filed, the funds shall be disbursed only when such liens have been cleared or sufficient funds have been set aside to cover such claims.

The Escrow Agreement further provides that a purchaser shall be entitled to a return of his funds, and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

(a) Developer requests Escrow Agent to return to Purchaser the funds of Purchaser then being held hereunder by Escrow Agent; or

(b) Developer notifies Escrow Agent of Developer's exercise of the option to rescind the Sales Contract pursuant to any right of rescission stated therein or otherwise available to Developer; or

(c) If a Purchaser's funds were obtained prior to the issuance of a Final Public Report and the request is prior to the time the Final Public Report is issued; or

(d) If the Final Public Report differs in any material respect from the Preliminary Public Report, unless the

Purchaser has received for the Final Public Report; or

(e) If the Final Public Report is not issued within one (1) year from the date of issuance of the Preliminary Public Report.

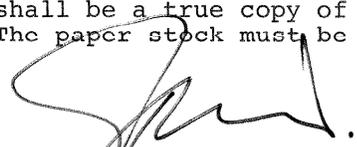
MANAGEMENT AND OPERATIONS: The Developer has selected as the initial managing agent GSC Management Corp., a Hawaii corporation, 4334 Rice Street, Lihue, Kauai, Hawaii 96766.

STATUS OF PROJECT: The Developer has advised the Real Estate Commission that construction of the building will commence as soon as financing for construction has closed, which is tentatively scheduled for August, 1984. Based thereon, completion is estimated for June, 1985.

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 22, 1984 and information subsequently filed as of September 4, 1984.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1613 filed with the Commission on June 22, 1984.

The report, when reproduced, shall be a true copy of the Commission's public report. The paper stock must be yellow in color.


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

Distribution:

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

REGISTRATION NO. 1613

September 7, 1984