

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

**FINAL
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT**

ON

KAWELA SUNSET CONDOMINIUM
57-509 and 57-511 Kamehameha Highway
Kahuku, Hawaii 96731

Registration No. 1689 (CONVERSION)

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 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.

ISSUED: September 9, 1985

EXPIRED: October 9, 1986

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 prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED ON THE REQUIRED NOTICE OF INTENTION SUBMITTED June 27, 1985, AND INFORMATION SUBSEQUENTLY FILED ON August 29, 1985. THE DEVELOPER BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROEPRTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. KAWELA SUNSET CONDOMINIUM is a two-unit, fee simple condominium conversion project consisting of an approximately .335 acre parcel of ocean-front land, together with the existing improvements thereon, said improvements being two (2) detached, single-family, wood frame dwellings.

2. The Developer of the Project has filed all documents and materials deemed necessary by the Commission for the registration of this condominium Project and the issuance of this Final Public Report.

3. The basic documents (Declaration of Horizontal Property Regime and By-Laws of the Association of Owners) were executed on May 17, 1985, and have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1304490 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18706, Page 53. A copy of the floor plans has been filed as Condominium Map No. 959. The First Amendment to Declaration of Horizontal Property Regime dated July 25, 1985, has been filed as Document No. 1315084, recorded in Liber 18848, Page 399. The Joinder in First Amendment to Declaration of Horizontal Property Regime and Agreement has been filed as Document No. 1315085, recorded in Liber 18848 on Page 399. The Consent to First Amendment to Declaration of Horizontal Property Regime has been filed as Document No. 1315086 and recorded in Liber 18848 on Page 412.

4. Advertising or promotional matter have not been submitted pursuant to the Rules and Regulations promulgated by the Real Estate Commission.

5. 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 promulgated thereunder which relate to Horizontal Property Regimes.

6. This Final Public Report is made a part of the registration of the KAWELA SUNSET CONDOMINIUM Project. The Developer has the responsibility of placing a true copy of the Final Public Report (white paper stock) and Disclosure Abstract in the hands of all purchaser and prospective purchasers and of securing a signed copy of a receipt therefor.

7. This Final Public Report automatically expires thirteen (13) months after the date of issuance, September 9, 1985, unless a Supplementary Public Report issues or the Commission, upon review of the registration issues an order extending the effective period of this Report.

NAME OF PROJECT: KAWELA SUNSET CONDOMINIUM

LOCATION: The site, consisting of approximately .335 acre, is located at 57-509 and 57-511 Kamehamcha Highway, Kahuku, Hawaii 96731.

TAX MAP KEY NO.: First Division: 5-7-05: parcel 8.

ZONING: R-6, Residential

DEVELOPER: Scott Foster Soper and Teresa Jane O'Kane, husband and wife, whose post office address is P.O. Box 841, Haleiwa, Hawaii 96712, [REDACTED]

ATTORNEY REPRESENTING DEVELOPER: Law Office of Green, Ning, Lilly & Jones, (attention Stephen A. Jones, Esq.), 1100 Pauahi Tower, 1001 Bishop Street, Honolulu, Hawaii, 96813 (Telephone: (808) 528-1100).

DESCRIPTION OF PROJECT: The Declaration of Horizontal Property Regime and the plans submitted by the Developer indicate a fee simple project consisting of approximately .335 acre parcel of ocean-front land, together with the existing improvements thereon, containing a total of two (2) detached, single-family dwellings. Each of the dwellings is a detached, one-story residential building constructed principally of wood, glass, and allied building materials on concrete footings, without basements or elevators. The Dwelling Units are more particularly described as follows:

Dwelling Unit A consists of a living room, family room, kitchen, two bathrooms, three (3) bedrooms, and a storage room. The net floor area of Dwelling Unit A is approximately 1320 square feet. There is an assigned uncovered parking for two (2) cars adjacent to Dwelling Unit A on a concrete parking pad.

Dwelling Unit B consists of a living room, kitchen, one bathroom, two (2) bedrooms, and an entry porch. The net floor area of Dwelling Unit B is approximately 600 square feet. There is an assigned uncovered parking for two (2) cars adjacent to Dwelling Unit B on a concrete pad.

Each Dwelling Unit shall be deemed to include all interior and exterior surfaces of the respective dwelling located on the site of that dwelling as shown on the Condominium Map, including the roof, footings, and other surfaces of such structure. Each dwelling owner shall be responsible for all maintenance, repair, replacement, and improvement to his respective dwelling.

The Dwelling Units are located in the manner shown on the Condominium Map. Each Dwelling Unit has direct access to the ocean and to the common elements leading out to the public street.

COMMON ELEMENTS: Common elements shall include the limited common elements described below and all portions of the Property, excluding those items defined as part of any Unit hereof, but including the portion of land on which the Units located and all elements mentioned in the Act which are actually constructed on the land, and specifically shall include but not limited to:

- A. The land in fee simple;

B. All yards, grounds, planting areas, and landscaping;

C. The driveways and access areas of the units;

D. All electrical and mechanical equipment and wiring and other central and appurtenant installations for services, including power, lights, water, private sewage disposal, and drainage;

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

LIMITED COMMON ELEMENTS: Certain parts of the common elements called the "limited common elements" are hereby designated and set aside for the exclusive use of each Unit, and each Unit shall have appurtenant thereto exclusive easements for the use of such limited common elements. Unless otherwise specified, all costs of every kind pertaining to each limited common element, including but not limited to, costs of landscaping, maintenance, repair, insurance, replacement and improvement, shall be borne entirely by the Unit to which it is appurtenant. The limited common elements so set aside and reserved are as follows:

A. The site of each unit consisting of the land beneath and immediately adjacent thereto, and all improvements thereon (including the parking pads located on such site) as shown and delineated on said Condominium Map, shall be deemed a limited common element for the sole and exclusive use of the Unit to which it is appurtenant.

B. The electrical and plumbing lines, equipment and other installations servicing a Unit to the extent that such lines, equipment and installations service only that Unit; but to the extent (if any) that such lines, equipment and installations service both Units, they shall be common elements and not limited common elements.

INTEREST CONVEYED TO PURCHASER:

| <u>Unit No.</u> | <u>Percentage of Common Interest</u> |
|-----------------|--|
| A | 62% |
| B | 38% |

Each Dwelling shall have said percentage interest in all common profits and expenses of the Project and for all other purposes, including voting on all matters requiring action by the dwelling owners.

EASEMENTS: In addition to any easements designated in the limited common elements, the dwellings and common elements shall have and be subject to the following easements;

A. Each dwelling shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services (including but not limited to electricity, water, and sewer) for and in support of such dwellings; in the other common elements for use according to their respective purposes;

B. If any common element now or hereafter encroaches upon any dwelling, a valid easement for such encroachment and maintenance thereof, so long as it continues, does and shall exist. If any building or other improvement shall be partially or totally destroyed and then rebuilt, minor encroachments by any common elements upon any unit or limited common element or by any dwelling upon any other dwelling lot due to reconstruction, shall be permitted, and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist. PROVIDED, that in no event shall a valid easement for encroachment occurred due to the negligence or misconduct of said owner or owners;

C. The Association of Owners (the "Association") shall have the right to be exercised by its Board of Director or the managing agent, if any, to enter each Dwelling and limited common elements, from time to time, during reasonable hours as may be necessary for the operation of the Project, or at any time for making emergency repairs therein necessary to prevent damage to any Dwelling or common element.

D. The Developer reserves the right to grant to any public or governmental authority rights of ways and other easements, which are for the sole benefit of the Project, or which do not materially interfere with the use nor materially impair the value of, any Dwelling, over, across, under and through the common elements and limited common elements for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage and other public services and utilities, and rights to enter for the purpose of installing, repairing, altering and removing such lines and facilities and of trimming any trees in the way thereof; PROVIDED, the Association, through the Board of Directors, with the consent or agreement of any holder of any then-existing easement effective thereby, is authorized to grant, convey, transfer, cancel, relocate deal with any and all such public services and utilities easements now or hereafter located on or affecting the Project.

PURPOSE OF BUILDING AND RESTRICTION AS TO USE: The Declaration provides that the Dwellings of the Project shall be occupied and used only as private residential dwellings by the respective owners thereof, their families, domestic servants, personal guest and tenants, and for no other purposes.

RESERVED RIGHT TO DIVIDE UNIT A INTO TWO UNITS: The Declaration provides that the owner of Unit A shall have the right and option at any time, and without the consent of the owner of Unit B, to divide Unit A into two separate condo-

minium units, A-1 and A-2. Any such division of Unit A into Units A-1 and A-2, shall not diminish or alter the common elements and limited common elements appurtenant to Unit B, nor the percentage common interest of Unit B. Any such division shall be subject to conformance with all applicable City and County laws, ordinances, and variances, and to the other conditions as more particularly described in the Declaration. Any sale of subdivided units shall require the issuance of a Supplementary Public Report.

OWNERSHIP OF TITLE: A Preliminary Title Report issued by Fidelity National Title Insurance Co., dated August 19, 1985, indicates that title to the land is vested in KAWELA KAI HOMEOWNERS' ASSOCIATION, INC., a Hawaii corporation, Seller under that certain Agreement of Sale dated September 7, 1984 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1257264, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18142 at Page 430; and that Scott Foster Soper and Teresa Jane O'Kane, husband and wife (the Developer), are the Buyers under said Agreement of Sale.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report dated April 25, 1985, indicates the following encumbrances:

1. Real property taxes that are due and owing; reference is made to the Office of the Director of Finance, City and County of Honolulu.

2. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with the County regulations and/or ordinance and its effect, if any, upon the area of said parcel.

3. RESERVING unto the State of Hawaii all mineral and metallic mines of every description.

4. Restriction of vehicle access right along Kamehameha Highway, as shown on File Plan 1793.

5. MORTGAGE

MORTGAGOR: KAWELA KAI HOMEOWNERS' ASSOCIATION, INC., a Hawaii corporation

MORTGAGEE: TRUSTEES OF THE EMPLOYEES' PROFIT SHARING PLAN AND TRUST OF HONOLULU FEDERAL SAVINGS AND LOAN ASSOCIATION, under unrecorded Trust Agreement dated September 24, 1952, as amended.

DATED: June 27, 1980

FILED AND RECORDED: June 30, 1980

LAND COURT DOCUMENT NO. 1019907, and in LIBER 14831, PAGE 179

(NOTE: By that certain Release and Substitution of Security dated March 28, 1984 and filed April 6, 1984 as Land Court Document No. 1228834, land under search was substituted as security under above mortgage.)

6. AGREEMENT OF SALE

SELLER: KAWELA KAI HOMEOWNERS' ASSOCIATION,
INC., a Hawaii corporation
BUYER: SCOTT FOSTER SOPER, JR., and TERESA
JANE O'KANE, husband and wife,
Tenants by the Entirety
DATED: September 7, 1984
FILED AND RECORDED: September 13, 1984
LAND COURT DOCUMENT NO. 1257264, and in
LIBER 18142, PAGE 430
CONSIDERATION: \$135,000.00

7. The covenants, agreements, obligations, conditions and other provisions set forth in Declaration of Horizontal Property Regime dated May 17, 1985, and the By-Laws of the Association of Owners of KAWELA SUNSET CONDOMINIUM filed as Document No. 1304490 and recorded in Liber 18706, Page 53, Condominium Map No. 959.

A First Amendment to Declaration of Horizontal Property Regime dated July 25, 1985 was filed as Land Court Document No. 1315084 and recorded in Liber 18848 on page 399.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated May 2, 1985, identifies American Pacific Title Company, Inc., as the escrow agent. Upon examination, the executed Escrow Agreement and specimen sales contract are found to be in conformance with Chapter 514A, Hawaii Revised Statutes, as amended, and particularly Sections 514A-37, 514A-39, 514A-40, and 514A-63 and 514A-65. Among other provision, the Escrow Agreement provides that the escrow agent shall refund to purchaser all of the purchaser's funds, with interest, less a cancellation fee of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00), if purchaser shall request refund of his funds and any one of the following shall have occurred:

a. Developer has requested escrow agent in writing to return to purchaser the funds of purchaser then held under the Escrow Agreement by escrow agent; or

b. The Final Public Report differs in a material respect and the purchaser's written approval of such change shall not have been obtained.

If the cancellation takes place after the purchaser has received a loan commitment to finance his purchase, the cancellation fee shall be FIFTY AND NO/100 DOLLARS (\$50.00) as set forth in the Escrow Agreement.

It is incumbent upon the purchaser and prospective purchasers to read and understand the Escrow Agreement before executing the sales contract since the Escrow Agreement prescribes the procedure for receiving and disbursing purchasers' funds.

Among other provisions, the specimen sales contract provides that the Developer makes NO WARRANTIES AS TO ANY DEFECTS IN THE DWELLINGS AND THE COMMON ELEMENTS OF

THE PROJECT. THE PURCHASER IS TO INSPECT THE PROJECT AND UNDERSTAND AND AGREE THAT HE IS BUYING THE UNIT IN AN "AS-IS" CONDITION, WITHOUT WARRANTY OF ANY NATURE FROM THE DEVELOPER.

ALTERATION OF PROJECT: The Declaration provides that each dwelling owner has the sole option at any time, without consent of anyone other than the holders of liens, to improve, renovate, remodel, make additions to, remove, replace or restore the improvements to his dwelling or portions thereof. The foregoing changes are subject to the dwelling owner meeting other requirements more particularly described in the Declaration.

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 Owners under the direction of its Board of Directors, by a responsible managing agent if so directed by the Board. No managing agent has been appointed as of the date of this Report, and it is not expected that a managing agent will be appointed in the foreseeable future.

The Declaration provides that the owner of each dwelling shall be solely responsible for the maintenance, repair, replacement and restoration of such dwelling, appurtenant limited common element and its parking areas and the Association shall be responsible for all common elements of the project.

STATUS OF PROJECT: The Project is a conversion of fully constructed and existing dwellings to condominium status; said improvements are legal, and the land on which the Property is located is conforming under present zoning ordinances. The Developer estimates that both dwellings were initially constructed in 1955 and 1958. Dwelling B, and a portion of Dwelling A, were relocated to the Project site in November, 1984, and were renovated at that time.

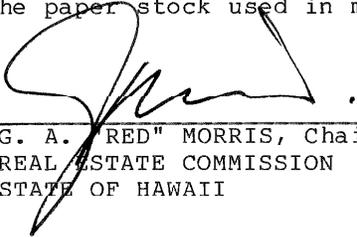
By letter dated May 13, 1985, the Director and Building Superintendent of the City and County of Honolulu confirms that the two buildings met all code requirements at time of construction, and there were no variance or special permit to allow deviation from any applicable code.

To the best of the Developer's knowledge, information and belief, there are no outstanding notices of uncured violations of the building code or other municipal regulations of the City and County of Honolulu.

THERE MAY BE, AMONG OTHER REQUIREMENTS, ZONING CODES, BUILDING CODES AND LAND USE LAWS PRECLUDING THE PURCHASER OR THE PROSPECTIVE PURCHASER FROM REBUILDING OR MAKING CHANGES TO THE PROPERTY SUBMITTED HEREIN FOR REGISTRATION AS A CONDOMINIUM PROJECT. THE PURCHASER OR PROSPECTIVE PURCHASER SHOULD ACQUAINT HIMSELF WITH SUCH REQUIREMENTS AT THE APPROPRIATE COUNTY AGENCIES.

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 27, 1985 and additional information submitted as of August 29, 1985.

This is the FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT which is made a part of Registration No. 1689 filed with the Commission on June 27, 1985. This Report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



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

DISTRIBUTION:

Department of Finance, City and County of Honolulu
Bureau of Conveyances
Planning Department, City and County of Honolulu
Federal Housing Administration
Escrow Agent

Registration No. 1689

September 9, 1985