

**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 KAI NANI CONDOMINIUM  
57-495 and 57-493 Kamehameha Highway  
Kahuku, Hawaii 96731  
REGISTRATION NO. 1751 (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: April 11, 1986

Expires: May 11, 1987

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 ON MARCH 21, 1986. 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. KAWELA KAI NANI CONDOMINIUM is a two-unit, fee simple condominium conversion project consisting of an approximately .465 acre parcel of ocean-front land, together with two (2) detached, single-family, wood frame dwellings and four (4) parking stalls.

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 filed on January 10, 1986, and have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1345561 and 1345562 respectively and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19216, Page 172 and 204 respectively. A copy of the floor plans has been filed as Regular System Condominium Map No. 983, and Land Court Condominium Map No. 572.

4. No advertising or promotional matter has 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 KAI NANI 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 purchasers 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 April 11, 1986, unless a Supplementary Public Report issued or the Commission, upon review of the registration issues an order extending the effective period of this Report.

NAME OF THE PROJECT: KAWELA KAI NANI CONDOMINIUM

LOCATION: The site, consisting of approximately .465 acre, is located at 57-495 and 57-493 Kamehameha Highway, Kahuku, Hawaii 96731.

TAX MAP KEY NO.: First Division: 5-7-05: parcel 6.

ZONING: R-6, Residential.

DEVELOPER: SCHUYLER EDWARD COLE and MARILYN JEAN COLE, husband and wife, whose post office address is [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 .465 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, 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 is a two-story structure consisting of a living room, family room, kitchen, two (2) bathrooms, three (3) bedrooms, and a study. The net floor area of Dwelling Unit A is approximately 1468 square feet. In addition, Dwelling Unit A contains a deck of approximately 540 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 is a one-story structure consisting of a living room, kitchen, one bathroom, and two (2) bedrooms. The net floor area of Dwelling Unit B is approximately 720 square feet. In addition, Dwelling Unit B contains a deck of approximately 375 square feet. There is 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. Dwelling Unit B has a non-exclusive, eight (8) foot wide easement for beach access purposes across the makai portion of Unit A's limited common element site, as shown on the Condominium Map. Dwelling Unit A has a non-exclusive, eleven (11) foot wide easement for driveway access purposes, across the portion of Dwelling Unit B's limited common element site adjacent to Kamehameha Highway, as shown on the Condominium Map.

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 Dwelling 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 Dwelling Unit to which it is appurtenant. The limited common elements so set aside and reserved are as follows:

A. The site of each Dwelling 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 Dwelling 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 Dwelling Unit; but to the extent (if any) that such lines, equipment and installations service both Dwelling 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	53%
B	47%

Each Dwelling Unit 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. Dwelling Unit B has a non-exclusive, eight (8) foot wide easement for beach access purposes across the makai portion of Unit A's limited common element site, as shown on the Condominium Map. Dwelling Unit A has a non-exclusive, eleven (11) foot wide easement for driveway access purposes, across the portion of Unit B's limited common element site

adjacent to Kamehameha Highway, as shown on the Condominium Map.

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 easement for such encroachments and the maintenance thereof, so long as they continue, shall exist. PROVIDED, that in no event shall a valid easement exist for encroachment occurring due to the negligence or misconduct of said owner or owners;

C. 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.

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 and occasional vacation rentals by the respective owners thereof, their families, domestic servants, personal guests and tenants, and for no other purposes.

OWNERSHIP OF TITLE: A Preliminary Title Report issued by the Security Title Corporation dated March 10, 1986 indicates that title to the land is vested in STEPHEN ALLEN MOORE and MARY EVELYN MOORE, husband and wife, as Tenants by the entirety, as to an undivided 85% interest, and ALBERT CARLETON PECK and EVELYN KNAPP PECK, husband and wife, as Tenants by the entirety, as to an undivided 15% interest, as Tenants in common, collectively Seller under that certain Agreement of Sale dated May 30, 1984 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1239532, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17917 at Page 435; and that Schuyler Edward Cole and Marilyn Jean Cole, husband and wife (the Developer), are the Buyers under said Agreement of Sale.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report dated October 21, 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. AGREEMENT OF SALE

SELLER: STEPHEN ALLEN MOORE and MARY EVELYN MOORE, husband and wife, and ALBERT CARLETON PECK and EVELYN KNAPP PECK, husband and wife.  
BUYER: SCHUYLER EDWARD COLE and MARILYN JEAN COLE, husband and wife, Tenants by the Entirety.  
DATED: May 30, 1984  
FILED AND RECORDED: June 1, 1984  
LAND COURT DOCUMENT NO. 1239532, and in LIBER 17917, PAGE 435

5. Declaration of Covenants, Conditions and Restrictions for Kawela Kai Homeowners' Association dated July 28, 1981, filed in said Office of the Assistant Registrar as Document No. 1080139, and also recorded on August 10, 1981 in said Bureau of Conveyances in Book 15747 Page 144. (also affects other property)

- (a) By instrument dated July 3, 1984, filed in said Office of the Assistant Registrar as Document No. 1247596, and also recorded on July 19, 1984 in said Bureau of Conveyances in Book 18024 Page 605, the foregoing Declaration was amended.
- (b) By instrument dated September 10, 1984, filed in said Office of the Assistant Registrar as Document No. 1257263, and also recorded on September 13, 1984 in said Bureau of Conveyances in Book 18142 Page 426, the foregoing Declaration was further amended.

6. The covenants, agreements, obligations, conditions and other provisions set forth in Declaration of Horizontal Property Regime dated October 10, 1985, and the Owners of KAWELA KAI NANI CONDOMINIUM filed as Document No. 1345561 and recorded in Liber 19216, Page 172, Regular System; Joinder thereto filed as Document No. 1345561, and also recorded in Book 19216 page 200; By-Laws of the Association of Owners of Kawela Kai Nani Condominium dated October 18, 1985, filed in said Office of the Assistant Registrar as Document No. 1345562, and also recorded on January 10, 1986 in said Bureau of Conveyances in Book 19216 Page 204; Joinder thereto filed as Document No. 1345562, and also recorded in Book 19216 Page 227.

7. Condominium Map No. 983, and Land Court Condominium Map No. 572.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated March 18, 1985, identifies Security Title Corporation 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 the 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 the purchaser the funds of the purchaser then held under the Escrow Agreement by the 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.

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 URGED TO INSPECT THE PROJECT, AND UNDERSTANDS AND AGREES 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, its appurtenant limited common elements and 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. Dwelling A is newly constructed and the Developer estimates that Dwelling B is approximately 38 years old.

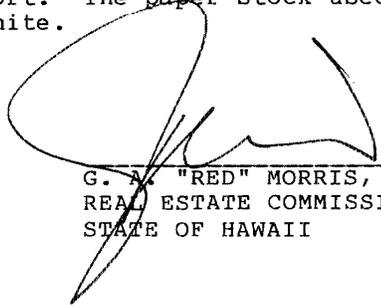
By letter dated March 10, 1986, the Director and Building Superintendent of the City and County of Honolulu confirms that the two buildings met all code requirements at time of construction, and there were no variances or special permits to allow deviation from any applicable code.

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 COUNTRY 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 March 21, 1986.

This is the FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT which is made a part of Registration No. 1751 filed with the Commission on March 21, 1986. 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:

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REGISTRATION NO. 1751