



**REAL ESTATE COMMISSION  
STATE OF HAWAII**  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
1010 Richards Street  
P. O. Box 3469  
Honolulu, Hawaii 96801

**CONDOMINIUM PUBLIC REPORT**

on  
WHALERS COVE AT POIPU  
Puuholo and Kaheka Road  
Koloa, County of Kauai  
State of Hawaii

Registration No. 1776

Issued: July 25, 1986  
Expires: August 25, 1987

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of July 14, \_\_\_\_\_, 19 86 and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

Type of Report:

- PRELIMINARY:** The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.  
(yellow)
  - FINAL:** The developer has legally created a condominium and has filed complete information with the Commission. This report must be read together with \_\_\_\_\_  
(white)
  - SUPPLEMENTARY:** Changes information contained in the  
(pink)
    - Prelim. Public Report dated \_\_\_\_\_
    - Final Public Report dated \_\_\_\_\_
    - Supp. Public Report dated \_\_\_\_\_
- And  Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

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Appendix I: People Connected with the Project  
 Attached only if there are additions or changes to information contained in the body of the report.

## GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "Horizontal Property Act" (Chapter 514A, Hawaii Revised Statutes) must be followed.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

Common elements are the areas of the condominium other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominiums, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called limited common elements and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented or encumbered, and they may be disposed of by will or gift.

Your apartment will, however, be part of the group of apartments that comprise the condominium. Study the Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

### Operation of the Condominium

The Association of Apartment Owners is the means through which apartment owners may take action with regard to the administration, management, and operation of the condominium. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your control of the administration and operation of the condominium will in most cases be limited to your right to vote as an owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is vitally important to all apartment owners that the transition from developer to owner control be accomplished in an orderly manner and in a spirit of cooperation.

**SUMMARY OF THE CONDOMINIUM PROJECT**

Interest to be Conveyed to Buyer:

A fee simple Condominium Apartment

**Type of Project:**

1.  New Construction  Conversion  
 Both New Construction and Conversion
2.  Residential  Commercial  
 Mixed Residential and Commercial  
 Other \_\_\_\_\_
3.  High Rise (5 stories or more)  Low Rise
4.  Single or  Multiple Buildings
5. Apartment Description See Exhibit "A"

| <u>Apt.<br/>Type</u> | <u>Qty</u> | <u>BR/Bath</u> | <u>Net<br/>Living Area*</u> | <u>Lanai/Patio</u> |
|----------------------|------------|----------------|-----------------------------|--------------------|
| _____                | _____      | _____          | _____                       | _____              |
| _____                | _____      | _____          | _____                       | _____              |
| _____                | _____      | _____          | _____                       | _____              |
| _____                | _____      | _____          | _____                       | _____              |
| _____                | _____      | _____          | _____                       | _____              |
| _____                | _____      | _____          | _____                       | _____              |

Total Apartments: \_\_\_\_\_

\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

6. Parking:

|                                     | <u>Number of Stalls</u> |
|-------------------------------------|-------------------------|
| Assigned Stalls (Individual Units)  | _____                   |
| Guest Stalls                        | _____                   |
| Unassigned Stalls                   | <u>58</u>               |
| Extra Stalls Available for Purchase | _____                   |
| Other: _____                        | _____                   |
| Total Parking Stalls                | <u>58</u>               |

7. Recreational amenities:

Swimming Pool

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: POIPU EQUITIES, INC. (808)  
Name Phone: 742-6889  
5126 Hoona Road (Business)  
Business Address  
Koloa, Kauai, Hawaii 96756

Names of officers or general partners of developers who are corporations or partnerships:

James R. Bell President-Treasurer  
Lawrence E. Bathgate Vice President-Secretary

Real Estate Sales Agent: Randy Abbott Realty, Inc. (808)  
Name Phone: 742-6428  
P. O. Box 220 (Business)  
Business Address  
Poipu, Kauai, Hawaii

Escrow: Security Title Corporation (808)  
Name Phone: 521-9511  
1001 Bishop Street, 12th Floor (Business)  
Business Address  
Honolulu, Hawaii 96813

Managing Agent: Aston Hotels & Resorts (808)  
Name Phone: 923-0745  
2255 Kuhio Avenue, 18th Floor (Business)  
Business Address  
Honolulu, Hawaii 96815-2658

Attorney for Developer: HIROSHI SAKAI, ATTORNEY AT LAW,  
A LAW CORPORATION, & MICHAEL H. SAKAI  
Name  
810 Richards Street, Suite 602  
Business Address  
Honolulu, Hawaii 96813

Appendix I may be attached to this report. If so, it will list additional people connected with the project or changes that may have been made to the above information after this public report was issued.

**CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances or filing with the Land Court a Declaration of Horizontal Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

- A. Declaration of Horizontal Property Regime contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium.

The Declaration for this condominium is:

Proposed  
 Recorded – Bureau of Conveyances – Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed – Land Court – Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

- B. Condominium Map (File Plan) shows the elevation and layout of the condominium. It also shows the floor plan for each apartment.

The Condominium Map for this condominium is:

Proposed  
 Recorded – Bureau of Conveyances – Map No. \_\_\_\_\_  
 Filed – Land Court – File Plan No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- C. Bylaws of the Association of Apartment Owners govern the operation of the condominium. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the way in which meetings will be conducted, and other matters which affect how the condominium will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded – Bureau of Conveyances – Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed – Land Court – Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

D. **House Rules.** The Board of Directors may adopt house rules to govern the use and operation of the common elements and individual apartments. House rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais, keeping of pets, and occupancy limits. They do not need to be recorded or filed to be effective. The initial house rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed       Adopted

Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are recorded or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of apartment owners who must vote for or give written consent to changes:

|                                | <u>Minimum<br/>Set by Law</u> | <u>This Condominium</u>                   |
|--------------------------------|-------------------------------|---|
| Declaration<br>(and Condo Map) | 75%                           | <u>75%</u>                                |
| Bylaws                         | 65%                           | <u>65%</u>                                |
| House Rules                    | —                             | See <u>Article V, Sec. 4,<br/>By Laws</u> |

The percentages for individual condominium projects may be more than the minimum set by law.

2. **Developer:** The developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws, or House Rules:

Reservation in the Sales Contract. During the sales and/or construction period, the Developer has reserved the right to make any changes to said documents and the Project as may be required by law, any title insurance company, institutional mortgage lender or governmental agency, provided only that such changes shall not substantially impair the prospective use and enjoyment of the Apartment, substantially reduce the usable space within the Apartment, render unenforceable the Purchaser's mortgage loan commitment, increase the Purchaser's share of common expense, or increase the purchase price.

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the underlying land will be in fee simple.
- Leasehold or Subleasehold: Individual apartments and the underlying land will be leasehold.

Lease Term Expires: \_\_\_\_\_  
Rent Renegotiation Date(s): \_\_\_\_\_  
\_\_\_\_\_

Lease Rent Payable:    Monthly                                    Quarterly  
                                  Semi-Annually                                    Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
 Month    Year.

- Individual Apartments in Fee Simple, Underlying Land in Leasehold or Subleasehold:

The leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners) either (1) remove or dispose of the building and other improvements; or (2) convey the building and improvements to the lessor at a specified price.

Exhibit \_\_\_\_\_ contains further explanations.

Lease Term Expires: \_\_\_\_\_  
Rent Renegotiation Date(s): \_\_\_\_\_  
\_\_\_\_\_

Lease Rent Payable:    Monthly                                    Quarterly  
                                  Semi-Annually                                    Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
 Month    Year.

- Other:

For Subleaseholds:

- Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is  
 Cancelled                                    Foreclosed.
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is cancelled or foreclosed.

**B. Underlying Land:**

Land Area: 99,018 square feet

Zoning: RR 20 & Open

TMK: FOURTH DIVISION 2-6-07-13

Fee Owner: Poipu Equities, Inc.

name  
5126 Hoona Road  
address  
Koloa, Kauai, Hawaii 96756

Sublessor: \_\_\_\_\_  
name  
\_\_\_\_\_  
address  
\_\_\_\_\_

**C. Buildings and Other Improvements:**

1.  New Construction                       Conversion of Existing Building  
 Both New Construction and Conversion

2. Buildings: 2                      Floors Per Building: 3 with Basement

3. Principal Construction Material:

- Concrete                       Hollow Tile                       Wood  
 Other Glass, steel, aluminum

4. Permitted Uses:

|   | <u>No. of Apts.</u> |                                       | <u>No. of Apts.</u> |
|---|---------------------|---------------------------------------|---------------------|
| <input type="checkbox"/> Commercial   | _____               | <input type="checkbox"/> Industrial   | _____               |
| <input checked="" type="checkbox"/> Residential                                 | <u>39</u>           | <input type="checkbox"/> Agricultural | _____               |
| <input type="checkbox"/> Timeshare/Hotel  | _____               | <input type="checkbox"/> Recreational | _____               |
| <input checked="" type="checkbox"/> Other: <u>Apartment/Resort/Time Sharing</u> |                     |                                       | <u>39</u>           |

5. Special Use Restrictions:

The Declaration, Bylaws, and House Rules may contain restrictions on the use and occupancy of apartments. Restrictions for this condominium include but are not limited to:

No livestock, poultry or other animals or pets shall be  
 Pets: allowed or kept without the prior written consent of the  
Board of Directors.

Number of Occupants: \_\_\_\_\_

Other: \_\_\_\_\_

6. Interior (fill in appropriate numbers):

Total Apartments 39

Elevators 2 Stairways Yes Trash Chutes No

| <u>Apt. Type</u>       | <u>Qty</u>   | <u>BR/Bath</u> | <u>Net Living Area*</u> | <u>Lanai/Patio</u> |
|------------------------|--------------|----------------|-------------------------|--------------------|
| <u>See Exhibit "A"</u> | <u>_____</u> | <u>_____</u>   | <u>_____</u>            | <u>_____</u>       |
| <u>_____</u>           | <u>_____</u> | <u>_____</u>   | <u>_____</u>            | <u>_____</u>       |
| <u>_____</u>           | <u>_____</u> | <u>_____</u>   | <u>_____</u>            | <u>_____</u>       |
| <u>_____</u>           | <u>_____</u> | <u>_____</u>   | <u>_____</u>            | <u>_____</u>       |
| <u>_____</u>           | <u>_____</u> | <u>_____</u>   | <u>_____</u>            | <u>_____</u>       |

\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining floor area may have been used.

**Boundaries of Each Apartment:**

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 as herein provided. Each apartment shall be deemed to include all the walls and partitions, floors and ceilings which are not load bearing within its perimeter walls 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 handrail of the lanai.

**Permitted Alterations to Apartments:**

Except as heren specified, the common interest and easements appurtenant to each apartment shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amendment to this Declaration and duly filed. The common interest and easements shall not be separated from the apartment to which they appertain and shall be deemed to be conveyed, leased or encumbered with such apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument.

7. Parking Stalls:

|  | <u>Number of Stalls</u> |
|--|-------------------------|
| Assigned Stalls (For Individual Units) | _____                   |
| Guest Stalls                           | _____                   |
| Unassigned Stalls                      | <u>58</u>               |
| Other: _____                           | _____                   |
| <b>Total Parking Stalls</b>            | <u>58</u>               |

Each apartment will have the exclusive use of at least \_\_\_\_\_ parking stall(s).

Buyers are encouraged to find out which stall(s) will be available for their use.

|                          | regular   | compact | tandem |
|--------------------------|-----------|---------|--------|
| Number of covered stalls | _____     | _____   | _____  |
| Number of open stalls    | <u>58</u> | _____   | _____  |

Commercial parking garage permitted on condominium.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium.

8. Recreational and Other Common Facilities:

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> Swimming pool including hot tub | <input type="checkbox"/> Storage Area |
| <input type="checkbox"/> Recreation Area                            | <input type="checkbox"/> Laundry Area |
| <input type="checkbox"/> Tennis Court                               | <input type="checkbox"/> Trash Chute  |
| <input type="checkbox"/> Other: _____                               |                                       |
| _____   |                                       |

9. Present Condition of Improvements

(For conversions of residential apartments in existence for five years):

a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

b. Compliance with Building Code and Municipal Regulations; Cost to Cure Violations

10. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot (for conversions only)

|            | <u>Conforming</u> | <u>Non-Conforming</u> |                |
|------------|-------------------|-----------------------|----------------|
|            |                   | <u>Legal</u>          | <u>Illegal</u> |
| Uses       | _____             | _____                 | _____          |
| Structures | _____             | _____                 | _____          |
| Lot        | _____             | _____                 | _____          |

If a variance has been granted or if uses, improvements, or lot are either legal non-conforming or illegal non-conforming, buyer should consult with county zoning authorities as to possible limitations which may apply.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium intended to be used by all apartment owners. They are owned jointly by all apartment owners.

Exhibit   B   describes the common elements.

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments. The limited common elements and the apartment which may use them are:

[ ] described in Exhibit \_\_\_\_\_

[ ] as follows:

There are no limited common elements in this Project.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

Exhibit   A   describes the common interests for each apartment.

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property.

Exhibit C describes the encumbrances against the title contained in the title report dated <sup>policy</sup> May 23, 1986 issued by Stewart Title Company.

Blanket Liens:

- There are no blanket liens affecting title to the individual apartments.
- There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. Buyer's interest will be affected only if the developer defaults prior to conveying the apartment to buyer.

| <u>Type of Lien</u>   | <u>Effect on Buyer's Interest<br/>If Developer Defaults</u> |
|---|---|
| The Developer proposes to have financing to complete the development with partial release provisions. |   |

F. Management of the Common Elements: The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium. The Association may be permitted, and in some cases may be required, to employ or retain a managing agent to assist the Association in managing the condominium.

Initial Managing Agent: When the developer or the developer's affiliate is the initial managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial managing agent for this condominium is: Aston Hotels & Resort

- not affiliated with the Developer.
- the Developer or the Developer's affiliate.
- other \_\_\_\_\_

G. Estimate of Initial Maintenance Fees:

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium. If you are late in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided to each apartment.

Exhibit  D  contains a schedule of maintenance fees and maintenance fee disbursements.

H. Separate Utility Charges for Apartments:

Except for the utilities indicated below, each apartment will be billed separately for utilities:

- |                                      |   |
|--------------------------------------|---|
| <input type="checkbox"/> Electricity | <input type="checkbox"/> Television Cable |
| <input type="checkbox"/> Gas         | <input type="checkbox"/> Water & Sewer    |
| <input type="checkbox"/> Other _____ |   |

I. Construction Warranties

1. Building and Other Improvements:

The Contractor warrants against structural defects in an additional apartment of which written notice has been given to the Contractor by the apartment owner at any time within one year from the date of substantial completion of the project or conveyance of title to the apartment owner, whichever first occurs. In addition, the Contractor warrants against structural defects in the common elements for one year from substantial completion of the project.

2. Appliances:

Manufacturer's warranties on appliances furnished with an apartment shall be assigned by the Developer and shall thereafter run in favor of the apartment purchaser directly from the manufacturer. These warranties will expire at different times, depending on the date of installation of the appliances. The Developer will assure each purchaser only that the appliances are in working order at the time of occupancy by the purchaser.

**J. Status of Construction and Estimated Completion Date**

The Project has no set commencement date for construction or completion. Construction is to commence upon completion of interim construction loan financing and the estimated date of completion would be about February 28, 1987.

**K. Project Phases:**

The developer  has  has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's Present Plans for Future Development:

**L. Sales Documents Filed with the Real Estate Commission:**

Notice to Owner Occupants

Specimen Sales Contract

Exhibit  E  contains a summary of the provisions of the sales contract.

Escrow Agreement dated \_\_\_\_\_

Exhibit  F  contains a summary of the provisions of the escrow agreement.

Other \_\_\_\_\_

**IV. ADDITIONAL INFORMATION NOT COVERED ABOVE**

**Buyer's Right to Cancel Sales Contract:**

**A. Rights Under the Condominium Statute:**

Preliminary Report: Sales made by the Developer are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report, Supplementary Report to a Final Report: Sales made by the Developer are binding if:

1. The Developer delivers a copy of the Final Public Report and all prior public reports not previously delivered to the buyer; and
2. The buyer is given an opportunity to read the reports; and
3. One of the following has occurred:
  - a. The buyer has signed a receipt for the reports and waived the right to cancel; or
  - b. Thirty (30) days have passed from the time the reports were delivered to the buyer; or
  - c. The apartment is conveyed to the buyer within 30 days from the date the reports were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

1. There is a material change in the condominium which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; and
2. The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

**B. Rights Under the Sales Contract:**

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Declaration of Horizontal Property Regime.
2. Bylaws of the Association of Apartment Owners.
3. House Rules.
4. Escrow Agreement.
5. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
6. Other \_\_\_\_\_

If these documents are not in final form, the buyer should ask to see the most recent draft.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law are available for \$ 2.50 at the Department of Commerce and Consumer Affairs.

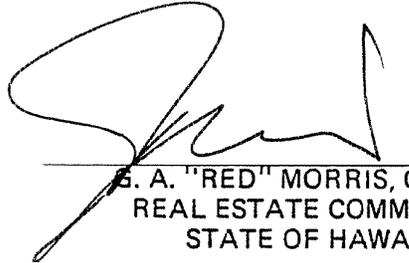
This Public Report is a part of Registration No. 1776 filed with the Real Estate Commission on July 14, 1986.

The Developer is responsible for delivering a true copy of this report to all purchasers and prospective purchasers and for securing a signed receipt for the report. When reproduced, this report must be on:

yellow paper stock                       white paper stock                       pink paper stock

Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary Public Report is issued or unless the Commission issues an order extending the effective period for the report.

Supplementary Public Reports expire on the expiration date given on the front of the report.



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

Separate Disclosure Abstract on this condominium:

Required                       Not Required — disclosures covered in this report

Distribution:

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

## EXHIBIT "A"

Schedule of Apartments and Common Interests

| <u>Building<br/>No.</u> | <u>Apt.<br/>No.</u> | <u>Type</u> | <u>Approximate<br/>Net Living<br/>Floor Area</u> | <u>Lanai<br/>Area</u> | <u>Percentage<br/>Interest</u> |
|-------------------------|---------------------|-------------|--|-----------------------|--------------------------------|
| 1                       | 110                 | 2B          | 1,288  | 388                   | 2.6345%                        |
| 1                       | 111                 | 2A          | 1,318  | 334                   | 2.5968%                        |
| 1                       | 112                 | 2F          | 2,060  | 396                   | 3.8606%                        |
| 1                       | 113                 | 2A          | 1,318  | 334                   | 2.5968%                        |
| 1                       | 114*                | 2A          | 1,303  | 334                   | 2.5732%                        |
| 1                       | 115*                | 2F          | 2,045  | 396                   | 3.8370%                        |
| 1                       | 116                 | 2A          | 1,318  | 334                   | 2.5968%                        |
| 1                       | 117                 | 2A          | 1,318  | 334                   | 2.5968%                        |
| 1                       | 120                 | 2D          | 1,205  | 245                   | 2.2793%                        |
| 1                       | 121                 | 2C          | 1,194  | 258                   | 2.2824%                        |
| 1                       | 122                 | 2G          | 1,912  | 245                   | 3.3906%                        |
| 1                       | 123                 | 2C          | 1,194  | 258                   | 2.2824%                        |
| 1                       | 124*                | 2C          | 1,179  | 258                   | 2.2588%                        |
| 1                       | 125*                | 2G          | 1,897  | 306                   | 3.4629%                        |
| 1                       | 126                 | 2C          | 1,194  | 258                   | 2.2824%                        |
| 1                       | 127                 | 2C          | 1,194  | 258                   | 2.2824%                        |
| 1                       | 130                 | 2E          | 1,231  | 196                   | 2.2431%                        |
| 1                       | 131                 | 2E          | 1,231  | 196                   | 2.2431%                        |
| 1                       | 132                 | 2E          | 1,231  | 196                   | 2.2431%                        |
| 1                       | 133                 | 2E          | 1,231  | 196                   | 2.2431%                        |
| 1                       | 134                 | 2E          | 1,231  | 196                   | 2.2431%                        |

|   |      |    |       |     |                |
|---|------|----|-------|-----|----------------|
| 1 | 135  | 2E | 1,231 | 196 | 2.2431%        |
| 1 | 136  | 2E | 1,231 | 196 | 2.2431%        |
| 1 | 137  | 2E | 1,231 | 196 | 2.2431%        |
| 1 | 138  | 3A | 1,508 | 460 | 3.0936%        |
| 2 | 210* | 2A | 1,303 | 334 | 2.5732%        |
| 2 | 211* | 2F | 2,045 | 396 | 3.8370%        |
| 2 | 212  | 2A | 1,318 | 334 | 2.5968%        |
| 2 | 213  | 2B | 1,288 | 388 | 2.6345%        |
| 2 | 220* | 2C | 1,179 | 258 | 2.2588%        |
| 2 | 221* | 2G | 1,897 | 306 | 3.4629%        |
| 2 | 222  | 2C | 1,194 | 258 | 2.2824%        |
| 2 | 223  | 2D | 1,205 | 245 | 2.2793%        |
| 2 | 224  | 1M | 995   | -0- | 1.5641%        |
| 2 | 230  | 2E | 1,231 | 196 | 2.2431%        |
| 2 | 231  | 2E | 1,231 | 196 | 2.2431%        |
| 2 | 232  | 2E | 1,231 | 196 | 2.2431%        |
| 2 | 233  | 2E | 1,231 | 196 | 2.2431%        |
| 2 | 234  | 3B | 1,476 | 233 | <u>2.6865%</u> |
|   |      |    |       |     | 100.0000%      |

\*Apartment next to the elevator shaft.

NOTE: The percentage undivided interest was calculated by dividing the percentage's net living area and lanai area by the sum of all the living areas and lanai areas of all the apartments, with minor adjustments to bring the total percentage to 100%.

Description of Apartments. The apartments in the Project consist of one type of one-bedroom apartment, seven types of two-bedroom apartments and two types of three-bedroom apartments.

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A. One-Bedroom Apartment. The one-bedroom apartment contains a dining-living room, kitchen, one bedroom, one bathroom, and a walk-in closet. The total living area of Type 1M apartment is 995 square feet.

B. Two Bedroom/One and Three-Fourths Bathroom Apartment. The two-bedroom apartments 2A through 2D inclusive contain a dining-living room, kitchen, two bedrooms, and one and three-fourths bathrooms and walk-in closet together with a lanai. The total living area of the apartments are as follows: 2A is 1,318 square feet together with a lanai area of 334 square feet; 2A units next to the elevator shaft is 1,303 square feet together with a lanai area of 334 square feet; 2B is 1,288 square feet together with a lanai area of 388 square feet; 2C is 1,194 square feet together with a lanai area of 258 square feet; 2C units next to the elevator shaft is 1,179 square feet together with a lanai area of 258 square feet; and 2D is 1,205 square feet together with a lanai area of 245 square feet.

C. Two-Bedroom/Two and One-Half Bathroom. The two-bedroom apartments 2F through 2G inclusive contain a dining-living room, kitchen, two bedrooms, two and one-half bathrooms, walk-in closet and laundry area together with a lanai. The total living area of the apartments are as follows: 2F is 2,060 square feet together with a lanai area of 396 square feet; 2F units next to the elevator shaft is 2,045 square feet together with a lanai area of 396 square feet; 2G is 1,912 square feet together with a lanai area of 245 square feet; and 2G units next to the elevator shaft is 1,897 square feet together with a lanai area of 306 square feet. The two-bedroom 2E apartment is a two level apartment with a stairwell of 1,231 square feet with a dining-living room, kitchen and one-half bathroom on the lower level and two bedrooms, two bathrooms and closet on the upper level together with a lanai area of 196 square feet.

D. Three-Bedroom Apartments. The three-bedroom Type 3A and 3B apartments are two level apartments with a stairwell containing a dining-living room, kitchen, one bedroom, one bathroom, walk-in closet together with a lanai on the lower level and two bedrooms, one bathroom and closet on the upper level. The total living area of the apartments areas follows: 3A is 1,508 square feet together with a lanai area of 460 square feet; and 3B is 1,476 square feet together with a lanai area of 233 square feet.

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

WHALE3  
EX A PRE

REV:10/16/86

EXHIBIT "B"

Common Elements

- a. The land in fee simple.
- b. The foundations, floor slabs, columns, girders, beams, supports, bearing walls, roofs, entry landings, Manager's Office together with one-half bathroom, Linen Room, Maintenance Room and an Office, stairways and elevators in the buildings not within any of the apartments.
- c. The yards, landscaping, sewage treatment plant, trash area, swimming pool including hot tub, 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.

EXHIBIT "C"

Encumbrances

1. AS TO PARCEL FIRST:

- a) Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent 6714.
- b) As to that portion of the land herein described 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.

- c) Grant dated September 20, 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.
- d) 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.
- e) Future road widening setback line running along Maulili Road, Kaheka Road and Puuholo Road, as disclosed by survey map prepared by Oscar Portugal, Registered Professional Land Surveyor, Certificate No. 4973.

2. AS TO PARCEL SECOND:

- a) As to that portion of the land herein described 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.

- b) Any adverse claim to any portion of said land which has been created by artificial means or has accreted to such portion so created.
- c) Reservation to the State of Hawaii, its successors and assigns, as reserved in that certain Quitclaim Deed dated September 28, 1979, recorded on October 2, 1979 in said Bureau of Conveyances in Book 14037, Page 370.
- d) The covenants as contained in that certain Quitclaim Deed dated September 28, 1979, recorded on October 2, 1979 in said Bureau of Conveyances in Book 14037, Page 370.

WHALE3  
EX C PRE

EXHIBIT  D

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

| <u>Apartment</u> | <u>Monthly Fee</u> x 12 months = | <u>Yearly Total</u> |
|------------------|----------------------------------|---------------------|
| Type 2A          | \$468.65                         | \$5,623.80          |
| Type 2A*         | 464.39                           | 5,572.68            |
| Type 2B          | 475.45                           | 5,705.40            |
| Type 2C          | 411.90                           | 4,942.80            |
| Type 2C*         | 407.65                           | 4,891.80            |
| Type 2D          | 411.35                           | 4,936.20            |
| Type 2E          | 404.81                           | 4,857.72            |
| Type 2F          | 696.72                           | 8,360.64            |
| Type 2F*         | 692.46                           | 8,309.52            |
| Type 2G          | 611.90                           | 7,342.80            |
| Type 2G*         | 624.95                           | 7,499.40            |
| Type 3A          | 558.30                           | 6,699.60            |
| Type 3B          | 484.83                           | 5,817.96            |
| Type 1M          | 282.28                           | 3,387.36            |

[ ] Revised on \_\_\_\_\_

\_\_\_\_\_  
The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

**Estimate of Maintenance Fee Disbursements:**

Monthly x 12 months = Yearly Total

**Utilities and Services**

**Air Conditioning**

**Electricity**

common elements only                   \$ 1,250                   \$ 15,000  
 common elements  
and apartments

**Gas**

Refuse Collection                   150                   1,800

Telephone                   75                   900

~~Water and Sewer~~                   450                   5,400

Sewer                   875                   10,500

**Maintenance, Repairs and Supplies**

Pest Control                   145                   1,740

Building                   500                   6,000

Grounds                   250                   3,000

Pool/Spa                   125                   1,500

**Management**

Data Processing                   200                   2,400

Management Fee                   500                   6,000

Payroll and Payroll Taxes                   3,390                   40,680

Office Expenses                   150                   1,800

Legal & Audit                   300                   3,600

**Insurance**                   1,420                   17,040

Insurance - DIC                   6,667                   80,004

**Reserves**                   200                   2,400

**Taxes and Government Assessments**

**Other**

TV Cable                   400                   4,800

Elevator                   300                   3,600

Manager's Apartment Rent                   600                   7,200

Auto                   50                   600

Miscellaneous                   50                   600

TOTAL                   \$18,047                   \$216,564

I/We, HCP/Aston Hotels & Resorts, as managing agents for the condominium, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

HCP/ASTON HOTELS & RESORTS

  
\_\_\_\_\_  
Vice President - Condominium Administration  
Date: 6/30/86

WHALERS COVE AT POIPU  
ESTIMATED MAINTENANCE BUDGET

|                                | <u>Monthly</u> | <u>Annual</u> |
|--------------------------------|----------------|---------------|
| <b>Receipts:</b>               |                |               |
| Maintenance Fee                | \$18,047       | \$216,564     |
|                                | =====          | =====         |
| <b>Disbursements:</b>          |                |               |
| Electricity                    | \$ 1,200       | \$ 15,000     |
| Sewer                          | 875            | 10,500        |
| Water                          | 450            | 5,400         |
| Telephone                      | 75             | 900           |
| Television Cable               | 400            | 4,800         |
| Elevator                       | 300            | 3,600         |
| Grounds                        | 250            | 3,000         |
| Pest Control                   | 145            | 1,740         |
| Pool/Hydro Spa                 | 125            | 1,500         |
| Refuse                         | 150            | 1,800         |
| Repairs & Purchases            | 500            | 6,000         |
| Data Processing                | 200            | 2,400         |
| Management Fee                 | 500            | 6,000         |
| Salaries Grounds & Maintenance | 1,600          | 19,200        |
| Salaries Manager               | 900            | 10,800        |
| Payroll Taxes                  | 300            | 3,600         |
| Group Insurance                | 300            | 3,600         |
| Worker's Compensation          | 290            | 3,480         |
| Apartment Rent                 | 600            | 7,800         |
| Automobile                     | 50             | 600           |
| Insurance                      | 1,420          | 17,040        |
| Insurance DIC                  | 6,667          | 80,004        |
| Legal & Audit                  | 300            | 3,600         |
| Office Supplies & Printing     | 150            | 1,800         |
| Miscellaneous                  | 50             | 600           |
| Reserve                        | 200            | 2,400         |
|                                | -----          | -----         |
| Total Disbursements            | \$18,047       | \$216,564     |
|                                | =====          | =====         |

**Maintenance Fees:**

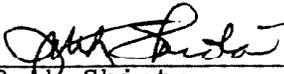
| <u>Type of Apartments</u> | <u>% Common Interest</u> | <u>No. of Apartments</u> | <u>Monthly Maintenance Fee</u> |
|---------------------------|--------------------------|--------------------------|--------------------------------|
| 2A                        | 2.5968                   | 5                        | \$ 468.65                      |
| 2A*                       | 2.5732                   | 2                        | 464.39                         |
| 2B                        | 2.6345                   | 2                        | 475.45                         |
| 2C                        | 2.2824                   | 5                        | 411.90                         |
| 2C*                       | 2.2588                   | 2                        | 407.65                         |
| 2D                        | 2.2793                   | 2                        | 411.35                         |
| 2E                        | 2.2431                   | 12                       | 404.81                         |
| 2F                        | 3.8606                   | 1                        | 696.72                         |
| 2F*                       | 3.8370                   | 2                        | 692.46                         |
| 2G                        | 3.3906                   | 1                        | 611.90                         |
| 2G*                       | 3.4629                   | 2                        | 624.95                         |
| 3A                        | 3.0936                   | 1                        | 558.30                         |
| 3B                        | 2.6865                   | 1                        | 484.83                         |
| 1M                        | 1.5641                   | 1                        | 282.28                         |
|                           | -----                    | --                       | -----                          |
|                           | 100.0000%                | 39                       | \$ 18,047.00                   |
|                           | =====                    | ==                       | =====                          |

\*Apartments next to an elevator shaft.

Aston Hotels & Resorts does hereby certify that the foregoing breakdown of annual maintenance fee and monthly estimated costs for each apartment is based upon generally accepted accounting principles.

ASTON HOTELS & RESORTS

By:



Ruth Shiota  
Vice President  
Condominium Administration

Date

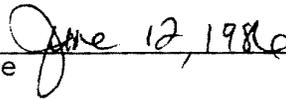


EXHIBIT "E"

Summary of Sales Contract

The Sales Contract contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Sales Contract says:

(a) A buyer must obtain his own financing. Buyer acknowledges that this Sales Contract is not contingent on any financing after the issuance of the final public report.

(b) That a purchaser's money will be held in escrow, under the terms of the Escrow Agreement.

(c) That interest on deposits shall belong to the buyer so long as said funds are held in escrow.

(d) That the unit will be subject to various other legal documents which the buyer certifies that he has examined.

(e) That the buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

The Sales Contract contains various other provisions with which the purchaser should become acquainted.

EXHIBIT "F"

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement these things will or may happen:

- (a) Escrow will let purchasers know when payments are due.
- (b) Escrow will arrange for purchasers to sign all necessary documents.
- (c) The Escrow Agreement says under what conditions a refund will be made to a purchaser.
- (d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.