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

CONDOMINIUM PUBLIC REPORT

on

PALI NAMAHAMA ACRES
At the end of
Kauapea Road,
County of Kauai,
State of Hawaii

Registration No. 1793

Issued: March 13, 1989
Expires: September 13, 1990

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of March 10, 19 89, 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. This report also contains information submitted by Kauai County officials.

Type of Report:

_____ **PRELIMINARY:** *(yellow)* 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.

_____ **FINAL:** *(white)* The developer has legally created a condominium and has filed complete information with the Commission.
[ ] No prior reports have been issued
[ ] Supersedes all prior public reports
[ ] Must be read together with _____

X **SECOND SUPPLEMENTARY:** *(pink)* Updates information contained in the
[ ] Prelim. Public Report dated _____
[X] Final Public Report dated September 12, 1986
[X] Supp. Public Report dated January 20, 1987

And [X] Supersedes all prior public reports
[ ] Must be read together with _____
[ ] This report reactivates the _____ public report(s) which expired on _____

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

[ ] Required [X] Not Required - disclosures covered in this report.

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.

[ ] No prior reports have been issued by the Commission.

[X] Changes made are as follows:

1. There are additional disclosures regarding the concerns which the Planning Department of Kauai County have raised which involve the subdivision laws. These disclosures are contained in Section IV and in Exhibit "H".

2. The Declaration of Horizontal Property Regime for the project has been amended by instruments dated December 10, 1986, and December 30, 1986. The First Amendment pertained to the building of improvements/structures on the project; while the Second provided owners joint rights to a driveway easement.

3. The Developer has retained additional reservations concerning the building of improvements/structures on the project. There are also additional covenants regarding the future acquisition of building permits which are more particularly described in Exhibit "I".

   In submissions for the Second Supplementary Public Report, the Developer advised that the new developer is KANE ENTERPRISES dba KANE NAMAHANA ENTERPRISES, an Oklahoma partnership. The general partners are John F. Kane and Henry T. Kane. A Quitclaim Deed dated January 1, 1988 vesting title to the new developer was recorded on May 16, 1988 at Book 21928, Page 620, Bureau of Conveyances, State of Hawaii.

   The Developer also advised that Kauai Realty, Inc. has since obtained a Condominium Management License (CMA-98) and that a new Sales Contract form and Escrow Agreement are in effect.

TABLE OF CONTENTS

page

Report Purpose 1
Type of Report 1
Summary of Changes from Earlier Public Reports 2
Table of Contents 3
General Information on Condominiums 4
Summary of the Condominium Project 5

I. PEOPLE CONNECTED WITH THE PROJECT 6

Developer
Real Estate Sales Agent
Escrow Company
Managing Agent
Attorney for Developer

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS
A. Declaration 7
B. Condominium Map (File Plan) 7
C. Bylaws 7
D. House Rules 8
E. Changes to Condominium Documents 8

III. THE CONDOMINIUM PROJECT
A. Interest to be Conveyed to Buyer 9
B. Underlying Land 10
C. Buildings and Other Improvements 10
D. Common Elements, Limited Common Elements, Common Interest 14
E. Encumbrances Against Title 15
F. Management of the Common Elements 15
G. Maintenance Fees 16
H. Utility Charges 16
I. Construction Warranties 16
J. Status of Construction 17
K. Project Phases 17
L. Sales Documents Filed with the Real Estate Commission 17

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE 18

Buyer's Right to Cancel Sales Contract 19
Signature of Real Estate Commission Chairman 20

EXHIBIT A: Common Elements
EXHIBIT B: Common Interest
EXHIBIT C: Encumbrances Against Title
EXHIBIT D: Estimate of Initial Maintenance Fees
EXHIBIT E: Summary of Sales Contract
EXHIBIT F: Summary of Escrow Agreement
EXHIBIT G: Building Rules
EXHIBIT H: Letter from Kauai County Planning Department
EXHIBIT I: Building Permits and Construction of Improvements
EXHIBIT J:

GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's *"Condominium 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 project 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 condominium projects, 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, mortgaged, or encumbered, and they may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. 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.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owner/tenant) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements. The leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. 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 participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment 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:

[X] Fee simple interest in an apartment and an undivided fee hold interest in the common elements.
[ ] Leasehold interest in an apartment and an undivided leasehold interest in the common elements.
[ ] Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

Types of Project:

1. [X] New Building(s) [ ] Conversion
   [ ] Both New Building(s) and Conversion

2. [ ] Residential [ ] Commercial
   [ ] Mixed Residential and Commercial
   [X] Other Agricultural

3. [ ] High Rise (5 stories or more) [X] Low Rise

4. [ ] Single or [X] Multiple Buildings

5. Apartment Description

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)
-0-	5	-0-	80.75 s.f.	-0-

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:

	Number of Stalls
Assigned Stalls (Individual Units)	
Guest Stalls	
Unassigned Stalls	
Extra Stalls Available for Purchase	
Other: Open parking in each owner's area	
Total Parking Stalls	

7. Recreational amenities:
   None

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: KANE ENTERPRISES dba KANE NAMAHANA ENTERPRISES
Name
Phone: (918) 336-4900 (Business)

110-1/2 SE Frank Phillips Blvd.
Business Address
Bartlesville, Oklahoma 74003

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

John F. Kane, General Partner
Henry T. Kane, General Partner
Bay K. C. Yee, Local Agent, Tel. No. (808) 537-3007

Real Estate Sales Agent: KAUAI REALTY, INC.
Name
Phone: (808) 245-1651 (Business)

2970 Kress Street
Business Address
Lihue, Kauai, Hawaii 96766

Escrow: FIRST HAWAII TITLE CORPORATION
Name
Phone: (808) 521-3411 (Business)

Suite 1190, 733 Bishop Street
Business Address
Honolulu, Hawaii 96813

Managing Agent: KAUAI REALTY, INC.
Name
Phone: (808) 245-1651 (Business)

2970 Kress Street
Business Address
Lihue, Kauai, Hawaii 96766

Attorney for Developer: HIROSHI SAKAI, ATTORNEY AT LAW, A LAW CORPORATION & MICHAEL H. SAKAI
Name

Suite 602, 810 Richards Street
Business Address
Honolulu, Hawaii 96813

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

[ ] Proposed
[X] Recorded - Bureau of Conveyances - Book 19718 Page 1
[ ] Filed - Land Court - Document Number _____

Amendment date(s) and recording/filing information:
First Amendment to Declaration dated December 10, 1986, recorded in Book 20142, Page 679.
Second Amendment to Declaration dated December 30, 1986, recorded in Book 20256, Page 160.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

[ ] Proposed
[X] Recorded - Bureau of Conveyance Condo Map No. 1025
[ ] Filed - Land Court Condo Map No. _____

Amendment date(s) and recording/filing information:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. 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 project will be governed.

The Bylaws for this condominium are:

[ ] Proposed
[X] Recorded - Bureau of Conveyances - Book 19718 Page 25
[ ] Filed - Land Court - Document Number _____

Amendment date(s) and recording/filing information:

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.

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. These rules must be followed by owners, tenants, and guests. 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 [X] 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 duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. Apartment Owners: Minimum percentage of common interest which must vote for or give written consent to changes:

	Minimum Set by Law	This Condominium
Declaration (and Condo Map)	75%	75%
Bylaws	65%	65%
House Rules	---	See Article V, Section 4, Bylaws

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:

The Developer reserves the right in its sole discretion to maintain advertising signs it deems necessary to conduct the sales of the Project, to manage, control, set allocations and charges for any utilities under a common meter or meters until such time as it has sold or otherwise disposed of all of the units.

There are additional reservations in favor of the Developer and covenants which a Buyer should be aware of which deals with the acquisition of building permits and making improvements to the common and/or limited common elements of the Project. A summary of the reservations/covenants are contained in Exhibit "I".

III. THE CONDOMINIUM PROJECT

A. **Interest to be Conveyed to Buyer:**

[X] Fee Simple: Individual apartments and the common elements which includes the underlying land will be in fee simple.

[ ] Leasehold or Subleasehold: Individual apartments and the common elements which includes the underlying land will be leasehold.

The leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

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.

[ ] Individual Apartments in Fee Simple Common Interest in the 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 - tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements; or (2) convey the building(s) and improvements to the lessor, often 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:**

Address: Kauapea Road
Kilauea, Kauai, Hawaii

Tax Map Key: Fourth Division 5-2-05-35 (TMK)

[ ] Address [ ] TMK is expected to change because _____

Land Area: 40.0 [ ] square feet [X] acre(s) Zoning: Ag-2

Fee Owner: KANE ENTERPRISES dba KANE NAMAHANA ENTERPRISES
Name
110-1/2 SE Frank Phillips Blvd.
Address
Bartlesville, Oklahoma 74003

Sublessor: _____
Name

Address

C **Buildings and Other Improvements:**

1. [X] New Building(s) [ ] Conversion of Existing Building(s)
   [ ] Both New Building(s) and Conversion
2. Buildings: Five Storage Floors Per Building 1
   [ ] Exhibit _____ contains further explanations.
3. Principal Construction Material:
   [ ] Concrete [ ] Hollow Tile [ ] Wood
   [X] Other Galvanized Steel
4. Permitted Uses:

	No. of Apts.		No. of Apts.
[ ] Commercial		[ ] Industrial	
[X] Residential		[X] Agricultural	5
[ ] Timeshare/Hotel		[ ] Recreational	

[X] Other: Such other uses as may be permitted by law. See Buildings Rules attached as Exhibit G for restrictions regarding location of dwellings and landscaping and the raising of animals. Also, purchasers must sign an affidavit regarding sustenance from farming on the property.

5. Special Use Restrictions:

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

[ ] Pets _____

[ ] Number of Occupants: _____

[X] Other: See Building Rules attached as Exhibit G for restrictions regarding location of dwelling and landscaping and the raising of animals. Also, purchasers must sign an affidavit regarding sustenance from farming on the property.

~~[--] There are no special use restrictions.~~

6. Interior (fill in appropriate numbers):

Total Apartments 5

Elevators -0- Stairways -0- Trash Chutes -0-

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)
-0-	5	-0-	80.75	-0-

**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.

Boundaries of Each Apartment:
Each unit will consist of the above apartment and its appurtenant limited common element which is the entire area set aside for the unit as set forth in the Condominium Map. The building can be relocated on any part of the area appurtenant to the unit Also, other buildings such as a home, may be built by each owner, in which event such owner will be required to amend the Declaration of Horizontal Property Regime by filing an "as built" verification.

Permitted Alterations to Apartments;
The common interest appurtenant to each unit shall have a permanent character and can be altered where necessary to conform with any subdivision, land use law and/or ordinance. Each unit owner may alter its farm structure within its unit in any manner as he deems desirable. Where adjoining unit owners desire to alter and/or transfer portions of their respective units they can do so by the filing of an amendment to the Condominium Map and the Declaration together with their respective signatures and acknowledgment by the Association that such change is being made.

There are provisions in the Declaration relating to the acquisition of building permits which a Buyer should be aware of. A summary of the provisions are contained in Exhibit "I".

7. Parking Stalls:

Total Parking Stalls: Unspecified

	Regular		Compact		Tandem		
	covered	open	covered	open	covered	open	TOTAL
Assigned (for individual units)							
Guest							
Unassigned							
Extra Available for Purchase							
Other:						X	
Total Covered & Open	Unspecified open stalls						

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.

[ ] Commercial parking garage permitted in condominium project.

[ ] Exhibit _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities.

[X] There are no recreational or common facilities.

[ ] Swimming pool

[ ] Recreation Area

[ ] Tennis Court

[ ] Storage Area

[ ] Laundry Area

[ ] Trash Chute

[ ] Other: _____

_____

9. Present Condition of Improvements

(For conversions of residential apartments in existence for at least 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. [X] 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

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	Conforming	Non-Conforming	Illegal
Uses	X		
Structures	X		
Lot	X		

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

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

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

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

   [X] Exhibit A describes the common elements.

   [ ] As follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

   [ ] There are no limited common elements in this project.

   [X] The limited common elements and the apartments which may use them are:

      [ ] described in Exhibit _____

      [X] as follows:

      The land set aside for the use of each owner of a Unit.

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.

   [X] Exhibit B describes the common interests for each apartment.

   [ ] As follows:

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 August 19, 1986 and issued by _____. The Developer represents that no new encumbrances have been placed on the property since that date.

Blanket Liens:

A blanket lien is a mortgage on a condominium project that secures a construction loan. It is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[X] 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.

Type of Lien	Effect on Buyer's Interest If Developer Defaults

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 project. 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 project.

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:

[X] not affiliated with the Developer.

[ ] the Developer or the Developer's affiliate.

[ ] self-managed by the Association of Apartment Owners.

[ ] 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 project. If you are delinquent 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. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

[ ] Electricity

[ ] Gas

[ ] Other _____

[X] Not applicable

[ ] Television Cable

[ ] Water & Sewer

I. **Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

The Manufacturer's warranty on the farm storage building.

2. Appliances:

None

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

The five (5) farm storage units have been completed on December 23, 1986.

K. **Project Phases:**

The developer [ ] has [X] 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:**

Sales documents on file with the Real Estate Commission include but are not limited to:

[ ] Notice to Owner Occupants

[X] Specimen Sales Contract

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

[X] Escrow Agreement dated December 29, 1988 with First Hawaii Title Corporation

Exhibit F contains a summary of the pertinent provisions of the escrow contract.

[ ] Other _____

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

1. Although the Condominium Map shows an Easement A for access purposes, the Developer is only required to initially pave the easement area (see Exhibit G). Further improvement and continued maintenance of the roadway will be a common expense. There will be a 10-foot setback from the road.

2. Purchasers should examine Exhibit G carefully. Note that each purchaser must sign an affidavit of sustenance, obtain his own building permit should he desire to construct a dwelling on the premises, pull his own utility lines, install his own cesspool, and refrain from using second-hand materials or allowing junk to be kept or stored on the premises.

3. PURCHASERS SHOULD BE AWARE THAT THE PLANNING DEPARTMENT OF KAUAI COUNTY HAS EXPRESSED CERTAIN CONCERNS REGARDING THE APPROPRIATENESS OF DEVELOPER CREATING AND SELLING CONDOMINIUM FARM UNITS AS CONTEMPLATED HEREIN. BASED ON A LETTER DATED OCTOBER 7, 1986 AND SIGNED BY AVERY H. YOUN, PLANNING DIRECTOR, (SEE EXHIBIT H), KAUAI'S PLANNING DEPARTMENT CONSIDERS THE SCHEME A POSSIBLE SUBVERSION OF THE COUNTY'S SUBDIVISION LAWS. WHILE THE REAL ESTATE COMMISSION HAS MADE NO JUDGMENT AS TO THE PROPRIETY OF THE FARM UNITS AT THIS TIME, IT FEELS THAT AS PART OF ITS DISCLOSURE FUNCTION THE POSITION OF THE COUNTY SHOULD BE MADE KNOWN TO PROSPECTIVE PURCHASERS AND THAT THEY BE ENCOURAGED TO CAREFULLY CHECK OUT PERTINENT FACTORS SUCH AS BUT NOT LIMITED TO THE BUILDING RULES (EXHIBIT G), THE AVAILABILITY OF UTILITIES AND THE SIZE AND LOCATION OF CONNECTIONS, EXHIBIT I HEREIN AND ALL OTHER MATTERS RELATING TO THE COST, USE AND ENJOYMENT OF THE FARM UNITS PRIOR TO THEIR ENTERING INTO A PURCHASE CONTRACT. THE COMMISSION, BY ISSUING THIS REPORT, IS NOT APPROVING OR DISAPPROVING THE PROJECT, NOR IS IT WARRANTING THE CORRECTNESS OR COMPLETENESS OF INFORMATION SUPPLIED TO IT BY ANY PARTY OR PARTIES.

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 to the buyer a copy of:
   a. Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report;
      AND
   b. Any other public report issued by the Commission prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
2. The buyer is given an opportunity to read the report(s); and
3. One of the following has occurred:
   a. The buyer has signed a receipt for the report(s) and waived the right to cancel; or
   b. Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
   c. The apartment is conveyed to the buyer within 30 days from the date the report(s) 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 (a) the use or value of the buyer's apartment or its limited common elements; or (b) 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. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. 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 (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107) are available at the Department of Commerce and Consumer Affairs.

This Public Report is a part of Registration No. 1793 filed with the Real Estate Commission on August 29, 1986.

Reproduction of Report. When reproduced, this report must be on:

[ ] yellow paper stock [ ] white paper stock [X] pink paper stock

Expiration Date of Reports. 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.

Gloria Damron

GLORIA DAMRON, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

EXHIBIT "A"

Common Elements

a. The land of the Project in fee simple.

b. Any installation for services such as power, light, gas, water, sewer lines, telephone, radio and television signal distribution and like utilities.

c. Easement A which goes over the common element and the Areas for each Unit as set forth in the Condominium Map.

d. All other land area that are not set aside as limited common elements for a Unit.

EXHIBIT "B"

Common Interest

Description of Condo Farm Units and Common Interest

The Condo Farm Units each having a farm storage building located on each Area described more particularly in Exhibit "B-1" attached to the Declaration of Horizontal Property Regime.

Unit No.	Area No.	Area in Acres	% Common Interest
A	C-1	6.008	20
B	C-2	5.624	20
C	C-3	5.342	20
D	C-4	5.339	20
E	C-5	5.260	20
	TOTAL	27.573	100

The percentage undivided interest is calculated by dividing 100% by five (the total number of units) to arrive at each unit's common interest.

The metes and bounds description of each Area that is appurtenant to each unit is specifically described in "B-1" and is the interior dimensions of such parcels.

PALI
EX B FINAL

EXHIBIT "C"

ENCUMBRANCES

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. Grant in favor of C. B. KILAUEA, INC., a Hawaii corporation, and AMERICAN HAWAIIAN DEVELOPMENT COMPANY, a Delaware corporation, dated September 12, 1975, recorded on September 12, 1975 in the Bureau of Conveyances, State of Hawaii, in Book 10910, Page 313, for easement or easements to use the improvements, pipelines, ditches, water flumes, tunnels and other water transportation facilities.

3. Right-of-Entry in favor of HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, and CITIZENS UTILITIES COMPANY, a Delaware corporation, dated February 25, 1980, recorded on April 18, 1980 in the Bureau of Conveyances, State of Hawaii, in Book 14664, Page 196 for Right-of-Entry and temporary easement for construction and maintenance of power and communication lines.

4. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the Declaration of Horizontal Property Regime of "Pali Namahama Acres" dated July 23, 1986, recorded on July 30, 1986 in the Bureau of Conveyances, State of Hawaii in Book 19718, Page 1. Condominium Map No. 1025, to which reference is hereby made.

NOTE: In addition, the Developer has advised the Commission of Amendments to the Declaration dated December 10, 1986 and December 30, 1986 and recorded in Book 20142, Page 679 and Book 20256, Page 160, respectively. The Developer has provided the Commission with copies thereof. Other than these amendments, there have been no changes.

EXHIBIT D

ESTIMATE OF INITIAL MAINTENANCE FEES AND ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

Apartment	Monthly Fee	x 12 months	=	Yearly Total
A	$80	X 12	=	$ 960.00
B	$80	X 12	=	960.00
C	$80	X 12	=	960.00
D	$80	X 12	=	960.00
E	$80	X 12	=	960.00
				$4,800.00

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	
[ ] common elements and apartments	
Gas	
Refuse Collection	
Telephone	
Water and Sewer	
Maintenance, Repairs and Supplies	
Building Grounds	$100 X 12 = $1,200.00
Management	
Management Fee Payroll and Payroll Taxes Office Expenses	$100 X 12 = 1,200.00
Insurance	$200 X 12 = 2,400.00
Reserves	
Taxes and Government Assessments	
Audit Fees	
Other	
TOTAL	$4,800.00

I/We, KAUAI REALTY, INC., as managing agents for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Allen Yama

Date: 12-23-88

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) What a purchaser must do to qualify for a loan if the purchaser wants a mortgage loan to cover part of the purchase price.

(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 seller.

(d) That the unit will be subject to various other legal documents which the purchaser should examine.

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

(f) The availability of utilities and easements are set forth in Paragraph I, TERMS AND CONDITIONS OF THE CONTRACT.

(g) There are restrictions on the purchaser's Assignment of its interest under the Sales Contract as st forth in Paragraph H, 1.

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.

BUILDING RULES

PALI NAMAHAMA ACRES

The purpose of these Building Rules is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the PALI NAMAHAMA ACRES Condominium, hereinafter referred to as "Project", and to provide for the maximum enjoyment of the premises. All owners and occupants, their agents, employees and invitees shall be bound by these Building Rules and standards of reasonable conduct whether covered by these Building Rules or not.

1. Definitions. As used herein:

a. The "Area" refers to the land set aside for the use of each Unit Owner.

b. The Unit refers to the farm storage unit and the land designated as a limited common element for the Unit Owner.

2. Building Permit. Any owner desiring to construct a single family farm dwelling in a unit will have to comply with the building and zoning code as the same may be changed from time to time. The present requirement is that each owner must sign an affidavit that he can obtain income or sustenance from farming on the property (Unit) and the Area must be a minimum of five acres.

3. Water and Utilities. The water, electricity and telephone will be drawn from the end of Kauapea Road to each Unit boundary abutting the roadway common element and each Unit Owner will have to then hook up at his own cost and expense the utilities to the dwelling and/or building.

4. Cesspools. There are no sewer lines and a sanitary sewer system. Each Unit Owner will have to have his own cesspool to be located within his own Area.

5. Roadway. The roadway is initially paved by the Developer. Each Unit Owner will keep a minimum of a ten feet setback area clear of all vegetation in order that the Association can keep the roadway area clear of any vegetation and growth.

6. Farming. A Unit Owner to farm his own area and/or plant any orchards and/or any other farming activity shall use materials and/or equipment that are maintained and repaired and will not allow any unused and/or junk material and/or vehicles to be stored and kept in the Area. In the construction of the farm

dwelling and/or any other accessory building the Unit Owner shall not use second-hand materials, quonset huts and/or any other materials that would create a nuisance in the Unit Owner's property.

7. View Plane. Any trees that are located in the common area of the project which cuts off the view plane of a Unit Owner to the ocean may at the expense of Unit Owner affected be cut and removed. Each Unit Owner in the construction of his farm dwelling is to locate his dwelling and landscaping so as not to affect the view plane of other Unit Owners.

8. Animals. The raising and keeping of any animals shall meet the requirements of the Department of Health and shall be properly fenced and the location of animals shall take into consideration any animal odors that affects the neighboring Unit Owners. Piggeries, apiaries, pen feeding of livestock, fish and poultry hatcheries are not permitted uses in the Units, the Common Elements and the Common Area Land.

9. Common Area Land. The Common Area land for any farming, raising of animals, landscaping and/or any other use may be decided upon by the Association from time to time including the hiring, leasing and/or any other arrangements to maintain the Area.

10. Common Element Expenses and Enforcement. The Association shall provide for such common expenses that will maintain and upkeep the Project and for the failure of any Unit Owner to observe these Building Rules the Association shall have the power to enforce these Rules including the assessment of the common expenses and the filing of a lien against the Unit.

Adopted at Honolulu, Hawaii, this 28th day of September, 1987.

ASSOCIATION OF UNIT OWNERS
OF PALI NAMAHAMA ACRES

By FOSTER PETROLEUM CORPORATION

By _____
Its Attorney-in-Fact

PALI2
B R 2

REV:11/6/87

TONY T. KUNIMURA
MAYOR

AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 246-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

October 7, 1986

Real Estate Commission
Department of Commerce and Consumer Affairs
P. O. Box 3469
Honolulu, Hawaii 96801

Attention Calvin Kimura

Subject: Agricultural Condominiums
Pali Namahana Acres - Registration No. 1793 (TMK: 5-2-05: 35)
Namahana Acres - Registration No. 1796 (TMK: 5-2-05: 23)
Kilauea, Kauai

Thank you for your letter of September 24, 1986, relative to the subject matter. We appreciate your cooperation on what we consider a controversial means of land ownership in terms of our County's zoning and subdivision regulations for the Agricultural Districts on Kauai. We feel that this method of land ownership is totally contrary to the intent of sound agricultural preservation and conservation practices that our Legislature, County Council and Planning Commission have continually advocated.

Condominiumizing agricultural lands is purely a marketing scheme which increases the salability of a parcel of land; and worst, greatly inflates the cost of agricultural lands. It will do nothing to enhance the viability of agriculture.

The Comprehensive Zoning Ordinance for the County of Kauai allows a one-time subdivision of agricultural properties. No further subdivision of any of the parcels thus created is allowed unless the parcel or parcels are reclassified into the State Land Use Urban District (Sec. 8-7.4, Revised Code of Ordinances attached).

The definition of "subdivision" pursuant to subsection 8-1.5, of the Revised Code of Ordinance (attached) states in part, "...when appropriate to the context shall relate to the process of dividing land for any purpose..." We are of the opinion that the division of the ownership, therefore, constitutes a further subdivision, even if a particular parcel is not

physically divided--the intent is a further fragmentation of the once subdivided property. We believe this action circumvents the County's zoning ordinance by allowing further "subdivision" of agricultural lands.

If an existing agricultural lot were to be condominiumized, such action would jeopardize any future subdivision. Furthermore, there is a maximum of five farm dwellings that are allowed on agricultural parcel provided the parcel is large enough to qualify. If, under the condominium concept, ownership was split more than five ways, what happens after the first five units are built?

Another problem that these agricultural condominium owners will encounter if dwelling units are not constructed is the ownership requirement at the time a building permit application is made. Ordinance No. 317 (attached) defines what an owner is. Based on this definition, a condominium owner must obtain the authorization from at least 75% of the "owners" within the parcel. If such authorization cannot be obtained, we will not issue a zoning or building permit for any construction or activity.

When the HPR legislation was first adopted, it was necessary to accommodate the sale of individual units in highrise buildings, townhouses or cluster developments. It was a innovative way to accommodate financing and to secure ownership of a unit on a pieces of property that contains several units. We do not believe that the law was created and adopted so that it could apply to the "division" of agriculture lands also. Had it been known at that time that this situation would occur, then we believe that our legislators would have inserted clauses to prevent the HPR of agricultural lands. Please be informed that the County of Kauai has just developed a draft ordinance to prevent the application of HPR to agricultural lands. Because of the renewed interest we've been experiencing here, we will be pursuing adoption of this ordinance in the near future.

We are very concerned and apprehensive about the registration of agricultural properties pursuant to the Horizontal Property Regime Act for the foregoing reasons. We notified your office several years ago that this Department would like to be a party to or review agency of any application that came in to HPR agricultural lands on Kauai. If possible, we would appreciate receiving advance notice of any future registrations, and further hope that all such applications, including those pending, are denied. Your cooperation on this matter would be greatly appreciated.

AVERY H. YOUN
Planning Director

cc: D. Kano

Attachments

ORDINANCE NO. 317 BILL NO. 449

AN ORDINANCE AMENDING ORDINANCE NO. 164 BY ADDING DEFINITIONS OF THE TERMS "APPLICANT" AND "OWNER"

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION I. Section 12.00, Definitions, of Ordinance 164, is hereby amended by adding thereto a definition of the term "applicant" as follows:

> "Applicant" shall mean any person having a controlling interest (75% or more of the equitable and legal title) of a lot; any person leasing the land of another under a recorded lease having a stated term of not less than five (5) years; or any person who has full authorization of another having the controlling interest or recorded lease for a stated term of not less than five (5) years.

SECTION II. Section 12.00, Definitions, of Ordinance 164, is hereby further amended by adding thereto a definition of the term "owner" as follows:

> "Owner" shall mean the holders of at least seventy-five per cent (75%) of the equitable and legal title of a lot.

SECTION III. The County Clerk is authorized to insert the proper placement and section numbering of all sections herein for the inclusion of these amendments in the Codification of Ordinances.

SECTION IV. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Councilman

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that hereto attached is a true and correct copy of Bill No. 449 which was passed on second and final reading by the Council of the County of Kauai at its meeting held on June 21, 1977, by the following vote:

FOR ADOPTION: Fernandes, Hew, Sarita, Tsuchiya, Yotsuda, Gonsalves — TOTAL - 6,
AGAINST ADOPTION: None — TOTAL - 0,
ABSENT & NOT VOTING: Yukimura — TOTAL - 1.

Dated at Lihue, Kauai, Hawaii, this 21st day of June, A. D. 1977.

Tad T. Miura
County Clerk, County of Kauai

ATTEST:

Louie Gonsalves, Jr.
Chairman & Presiding Officer

Date of Transmission to the Mayor:
June 27, 1977

Approved this 27th day of June, A. D. 1977.

Eduardo E. Malapit
Mayor
County of Kauai

EXHIBIT "I"

BUILDING PERMITS AND CONSTRUCTION OF IMPROVEMENTS

1. Permits. In the securing of any building, zoning and/or land use permits ("Permits") at the County of Kauai, State of Hawaii, the Developer, Association and/or the owners of Condo Farm Units shall observe the following:

a. Common Element Improvements. As to any improvements such as the improvement of any roadway and any installation of utilities that are located within the common element areas or if it is necessary to pass over and/or under a limited common element of a condo farm unit the Developer so long as it owns a unit is authorized on behalf of all of the owners to secure the permit or permits (this right shall pass on to the Board of Directors when the Developer no longer owns any units).

b. Limited Common Element Improvements. As to any improvements which will be within the limited common element for an owner, the Developer and thereafter the owner acquiring a conveyance of the condo farm unit shall determine and is authorized on behalf of all of the owners to secure the permit or permits, to build the improvements located within the area set aside for the condo farm unit provided that the Building Rules adopted for the Association by the Developer and any amendments thereto. The plan for the improvements of his limited common element shall be submitted to the Association and to the Developer so long as he owns any condo farm unit.

2. RESERVATIONS AND POWER OF ATTORNEY. So long as the Developer owns any condo farm unit, it reserves the right and has the irrevocable power of attorney coupled with an interest on behalf of all of the owners of condo farm units to act on any matter relating to the developing, construction and/or improvement including alteration, demolition and removal to develop and/or construct improvements as follows:

a. Common Elements. As to improvement of the common element and the installation of services, the Developer will advise the Association whether it is being done at Developer's cost and if not, then the Association will have to approve of and consent to the expenditure of the funds necessary to complete the improvements.

b. Limited Common Element. As to the improvement of the limited common element for a condo farm unit, the owner of the same shall have the sole authority to determine the same and/or incur the cost of the improvements including compliance with the Building Rules.

3. AUTOMATIC TRANSFER OF RESERVATIONS AND POWER OF ATTORNEY. The Developer by the conveyance of all of the condo farm units will automatically transfer his reservations and power of attorney coupled with an interest as to the application for any permits relating to the common elements and the installation of services.

NAMA
EX I