

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Napilihau Villages Joint Venture
Address 900 Fort Street, #1560, Honolulu, HI 96813

Project Name(*): Napilihau Villages I
Address: Hanawai & Napilihau Streets, Lahaina, HI 96761

Registration No. 3388

Effective date: June 9, 1998
Expiration date: July 9, 1999

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

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 by the developer when complete information is filed.

FINAL: The developer has legally created a condominium and has filed complete information with the Commission.
[] No prior reports have been issued.
[] This report supersedes all prior public reports.
[] This report must be read together with

X SUPPLEMENTARY: This report updates information contained in the:
[] Preliminary Public Report dated:
[X] Final Public Report dated: Effective Date: February 28, 1997
[] Supplementary Public Report dated:

And [] Supersedes all prior public reports
[X] Must be read together with Final Public Report dated February 28, 1997
[X] This report reactivates the Final public report(s) which expired on March 29, 1998

(*) Exactly as named in the Declaration
FORM: RECO-30 286/986/189/1190/892/0197

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report 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 developer.

Changes made are as follows:

1. Page 1 - supplementary public report must be read together with the Final Public Report dated February 28, 1997 (effective date).

The Table of Contents Exhibits have been reviewed and Exhibit I has been revised and Exhibits E-1 and I-1 have been added.

2. At § I of the Final Public Report:

James G. Lee (President - Napili Hau Corporation) is no longer associated with the Project and thus his name has been deleted and the name of the new general partner added.

Iwado Realty, Inc. is the new real estate broker for the project.

Case Bigelow & Lombardi is the new attorney for the Developer.

3. At § II of the Final Public Report:

Section A has been amended to note the Second Amendment to the Declaration of Condominium Property Regime of Napili Hau Villages I, dated October 21, 1997, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 97-153738, which amends Schedules A-1 through A-6 of the Declaration of Condominium Property Regime of Napili Hau Villages to change the heading of the last column from "% of Common Interest" to "Proportion of Common Interest".

4. At § III, Section E - an updated title report dated May 8, 1998 is included as Exhibit E-1.

Page 15 - Buyer's interest is specifically made subject to and subordinate to certain mechanic's liens.

Certain mechanics' liens which are blanket liens are set forth in Exhibit I-1, Addendum to Summary of Lawsuits.

Section G - The estimated date of completion of construction for the project (only Building No. 1 is not completed) is July, 1998.

5. At § V, Section C, a new subsection 3 relating to the issuance of a certificate of occupancy for Building No. 1 has been included.

6. Exhibit I - The status of the lawsuits has been updated; and a new Exhibit I-1 is included.

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I. PERSONS CONNECTED WITH THE PROJECT

Developer: Napilihau Villages Joint Venture Phone: (808) 524-1508
Name (Business)
Pauahi Tower, Suite 1570, 1001 Bishop Street
Business Address
Honolulu, HI 96813

Names of officers or general partners of developers who are corporations or partnerships:
Bert A. Kobayashi, Jr. (Manager-GSI Napili LLC)
Ronald H. Kobayashi (President-BRJ Napili Inc.)

Real Estate
Broker: Iwado Realty, Inc. Phone: (808) 536-5515
Name (Business)
296A Alamaha Street
Business Address
Kahului, HI 96732

Escrow: First American Long & Melone Title Co., Ltd. Phone: (808) 524-4050
Name (Business)
923 Nuuanu Avenue
Business Address
Honolulu, HI 96813

General
Contractor: Albert C. Kobayashi, Inc. Phone: (808) 671-6460
Name (Business)
94-535 Ukee Street
Business Address
Waipahu, HI 96797

Condominium
Managing
Agent: Oihana Property Management & Sales, Inc. Phone: (808) 244-7684
Name (Business)
940 Alua Street, #103
Business Address
Wailuku, HI 96793

Attorney for
Developer: Case Bigelow & Lombardi Phone: (808) 547-5400
(Tamotsu Tanaka) (Business)
Name
Grosvenor Center, Mauka Tower
737 Bishop Street, Suite 2600
Business Address
Honolulu, HI 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. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and 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.

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

Recorded - Bureau of Conveyances

Document No. 96-183173

Book _____ Page _____

Filed - Land Court

Document Number _____

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to the Declaration of Condominium Property Regime of Napilihau Villages I, dated February 28, 1997, recorded in the Bureau of Conveyances as Document No. 97-027411.

Second Amendment to the Declaration of Condominium Property Regime of Napilihau Villages I, dated October 21, 1997, recorded in the Bureau of Conveyances as Document No. 97-153738.

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

Recorded - Bureau of Conveyances Condo Map No. 2506

Filed - Land Court Condo Map No. _____

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to the Declaration of Condominium Property Regime of Napilihau Villages I, dated February 28, 1997, recorded as Document No. 97-027411.

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 manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed

Recorded - Bureau of Conveyances

Document No. 96-183174

Book _____ Page _____

Filed - Land Court

Document No. _____

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to the Bylaws of the Association of Apartment Owners of Napilihau Villages I, dated February 28, 1997, recorded as Document No. 97-027412.

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.

The limited common elements and the apartments which may use them, as described in the Declaration are:

described in Exhibit D .

as follows:

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 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. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit D .

as follows:

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit E-1 describes the encumbrances against the title contained in the title report dated May 8, 1998 and issued by First American Long & Melone Title Company, Ltd.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien 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.

[] There are no blanket liens affecting title to the individual apartments. [See below]

[X] 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. The buyer's interest will be affected only if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit If Developer Defaults or Lien is Foreclosed Prior to Conveyance</u> |
|---|--|
| Mortgage lien(s) of Developer's Lender(s) | Buyer's interest is specifically made subject and subordinate to such liens. |
| Mechanics' Liens of various companies. See Exhibit I-1. | |

Note: Developer has notified the Commission that at the time of the first conveyance of each apartment, each of Developer's lender(s)' and mechanics' lien(s) will be paid and satisfied of record, or the apartment being conveyed and its common interest shall be released therefrom.

F. 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 execution, delivery and recordation of the Apartment Deed shall constitute the assignment by Developer to Buyer of any and all warranties given Developer by the general contractor for the Project and by any subcontractors or materialmen, including but not limited to said contractor's guarantee of materials and workmanship against faulty or deficient materials and installation for a period of one (1) year after "substantial completion" of the Apartment, as that term is defined in the construction contract for the Project, and the benefit of such warranties shall accrue to Buyer on closing without further instruments or documents.

2. Appliances:

Buyer shall also have the direct benefit of any manufacturer's or dealer's warranties covering the appliances in the Apartment.

G. Status of Construction and Date of Completion or Estimated Date of Completion:

Construction of Buildings 2 to 9, inclusive, has been completed; construction of Building No. 1 is estimated to be completed as of July, 1998; however, a certificate of occupancy will not be issued until the contested case is completed. See V.C.3 "Building No. 1" (page 20) below.

H. Project Phases:

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

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

Buyers should be aware that neighboring lots may also be developed as separate condominium or rental projects.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other: _____

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 Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu, Hawaii 96809, at a nominal cost.

This Public Report is a part of Registration No. 3388 filed with the Real Estate Commission on August 2, 1995.

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

YELLOW paper stock WHITE paper stock PINK paper stock

C. **Additional Information Not Covered Above**

1. **AFFORDABLE HOUSING.** The project will be sold subject to certain affordable housing requirements established by Maui County. Certain units are being designated for purchase by "Moderate Income Purchasers" and "Low-Moderate Income Purchasers" based on income limits. To this extent the definition of "owner-occupant" as defined in the Condominium law shall be further limited by Maui County's restrictions. Purchasers are urged to inquire further on this matter.
2. **LAWSUITS.** See attached information relating to certain lawsuits against the Project, attached as Exhibits I and I-1 hereto.
3. **BUILDING NO. 1.** The Maui Planning Commission ("Commission") on May 14, 1998, approved the Special Management Area Permit for the Napili Hau Villages I condominium project. The Commission also approved the intervention of Alaeloa Residential Condominium Owners to a contested case limited to issues relating to the drainage that runs through the Alaeloa property which is downstream from the Project, to the ocean and the impact, if any, of such drainage to the ocean and its environment. The Commission required that the contested case be completed within one year from May 14, 1998, and until the contested case is completed, no certificate of occupancy for Building No. 1 (which is described in the Final Public Report as the Type "M" Building) will be issued by the County of Maui. The Commission declared that the other eight buildings in the project, all of which were completed as of May 14, 1998, can be sold, closed and title transferred anytime. However, since Building No. 1 was not completed, the certificate of occupancy will not issue until the contested case is completed.

The Developer warrants to each and every purchaser of an apartment in Building No. 1 as follows:

- a. The closing of the purchase of each apartment in Building No. 1 will occur only after the contested case has been completed.
- b. If the contested case is not completed by May 13, 1999, any Purchaser will have an option to cancel the Sale and Purchase Agreement without liability and receive a refund of any deposit without interest.

The issues relating to drainage through the Alaeloa property had been litigated previously in 1996. At that time the Planning Commission approved a Special Management Area Permit for the entire Project, including the drainage through the Alaeloa property. However, the Special Management Area Permit was vacated by the Hawaii Supreme Court on November 5, 1997 due to a failure to submit an Environmental Assessment. The Developer, meanwhile, built the drainage system according to plans and specifications that were reviewed and approved by the County of Maui.

The Developer intends to quickly process the contested case to a conclusion.

D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

NAPILHAU VILLAGES JOINT VENTURE

Name of Developer

By: Wayne Tanigawa 6/3/98
Duly Authorized Signatory Date

Wayne Tanigawa, President

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, Maui County
Planning Department, Maui County
Federal Housing Administration

EXHIBIT "I"

Summary of Lawsuits

The Kahana Sunset Owners Association (KSOA), an adjacent property owner, has filed four separate lawsuits against the developer of Napilihau Villages and the County of Maui and the Maui County Council.

The first, The Kahana Sunset Owners Association v. The County of Maui, et al., Civil No. 93-1001(2), is a complaint by KSOA alleging that the County of Maui improperly issued a grading permit and minor shoreline management area (SMA) permit. Under these permits, the Developer stockpiled fill material on the project site. While the County of Maui may have misapplied the law in issuing these two permits, any impropriety was corrected when, after a contested hearing, the County of Maui issued an SMA permit for the entire project. A settlement agreement was reached by all parties and the outcome of this litigation will not affect the project.

KSOA initiated its second lawsuit, The Kahana Sunset Owners Association, et al. v. The Maui County Council, et al., Civil No. 94-0504(3), against the Developer and the Council alleging that the Council had improperly approved a change in zoning ordinance. The Circuit Court found no impropriety in the Council's granting of the change in zoning ordinance. An appeal from the Circuit Court decision has been taken by the KSOA which is still pending in the Hawaii Supreme Court as S. Ct. No. 19217.

In order to develop the project site, the Developer had to obtain an SMA permit which was contested by KSOA. After a protracted hearing, the hearing officer recommended approval of the permit. His recommendations were adopted by Maui County Council and the SMA permit was issued in February 1995. KSOA appealed to the Circuit Court in its third lawsuit, The Kahana Sunset Owners Association v. County of Maui, et al., Civil No. 95-0122(2). On January 17, 1996, the court upheld the issuance of the SMA permit. KSOA has taken another appeal, S. Ct. No. 19588, which is pending.

On April 12, 1996, KSOA filed its fourth lawsuit, The Kahana Sunset Owners Association v. County of Maui, et al., Civil No. 96-0320(3), once again trying to reopen the issuance of the SMA permit. On August 7, 1996, the Circuit Court confirmed the prior judgment in Civil No. 95-0122(2) (the third lawsuit) and denied KSOA's motion for partial summary judgment. No trial date has been set. This case is still pending.

The Developer has executed a Settlement Agreement with The Kahana Sunset Owners Association whereby three of the four lawsuits have been dismissed. The fourth lawsuit has not been dismissed but will be in due course.

END OF EXHIBIT "I"

EXHIBIT "I-1"

Addendum to Summary of Lawsuits

1. Notice of Pendency of Action dated January 6, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 97-0032(3), by KFM Construction, Inc., a Hawaii corporation, Lienor, and Napilihau Villages Joint Venture, a joint venture registered as a Hawaii general partnership, the general partners of which are BRJ Napili, Inc., a Hawaii corporation, and Napilihau Corporation, a Hawaii corporation, et al., Respondents, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 98-004818.

2. Amended Lis Pendens dated February 6, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0002(2), by Du-Watts Electric, Inc., a Hawaii corporation, Lienor, Napilihau Village Joint Venture, Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-018881.

Stipulation to Allow Mechanic's Lien; Order, dated April 17, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0002(2), by Du-Watts Electric, Inc., a Hawaii corporation, Lienor, Napilihau Villages Joint Venture, Fee Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-056905.

3. Mechanics Lien filed on January 12, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-003, by Dorvin D. Leis Co., Inc., Kela Corporation dba Windward Construction, Jim McLemore, Contractor, Mary J. Frye dba Hawaiiana Cleaning Service, Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

Notice of Mechanic's Lien dated March 25, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0003(3), by Dorvin D. Leis Co., Inc., Kela Corporation dba Windward Construction, Jim McLemore, Contractor, Mary J. Frye dba Hawaiiana Cleaning Service, Lienor, Napilihau Village Joint Venture, Fee Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-042230.

4. Mechanics Lien filed on January 16, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-004, by JD Painting & Decorating, Inc., Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

Notice of Mechanic's Lien dated March 25, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0004(3), by JD Painting & Decorating, Inc., a Hawaii corporation, Lienor, Napilihau Village Joint Venture, Fee Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-042229.

5. Mechanic's Lien filed on January 21, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-005, by Laau Structures, Inc., Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

6. Mechanic's Lien filed on January 28, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-006, by Whirlpool Corporation, Lienor, Napilihau Village Joint Venture, Respondent (pending).
7. Mechanic's Lien filed on January 28, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-007, by MJK, Inc., Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

Lis Pendens dated February 18, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0007(3), by MJK, Inc., a Hawaii corporation, Lienor, Napilihau Village Joint Venture, Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-024163.
8. Mechanic's Lien filed on January 29, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-008, by Lahaina Glass Company, Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

Stipulation to Allow Mechanic's Lien; Order, dated April 17, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0008(3), by Lahaina Glass Company, Inc., a Hawaii corporation, Lienor, Napilihau Village Joint Venture, Owner, Albert C. Kobayashi, Inc., a Hawaii corporation, General Contractor, recorded in said Bureau of Conveyances as Document No. 98-056933.
9. Lis Pendens dated February 18, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0009(3), by MJK, Inc., a Hawaii corporation, Lienor, Napilihau Village Joint Venture, Owner, Albert C. Kobayashi, Inc., General Contractor, recorded in said Bureau of Conveyances as Document No. 98-024236.
10. Notice of Pendency of Action dated February 20, 1998, filed in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0010(2), by Wesco Distribution, Inc., Lienor, Napilihau Village Joint Venture, et al., Respondents, recorded in said Bureau of Conveyances as Document No. 98-032202.
11. Mechanics Lien filed on March 11, 1998, in the Circuit Court of the Second Circuit, State of Hawaii, M. L. No. 98-0012(2), by Gypsum Floors of Hawaii, Inc., Lienor, Napilihau Village Joint Venture, Albert C. Kobayashi, Inc., Respondents (pending).

The Developer will not close the purchase of any apartment in the Project without obtaining a release from each of the above mechanic's liens. A purchaser can refuse to close if the Developer is unable to obtain a release of each purchaser's apartment from each mechanic's lien. The Developer is meeting with each holder of a mechanic's lien to release the lien in exchange for partial payment of the net proceeds payable to Developer from the sale of each apartment.

END OF EXHIBIT "I-1"