

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
KUHALE KAPAHULU
1023 Kapahulu Avenue
Honolulu, Hawaii 96816

Registration No. 997

IMPORTANT — Read This Report Before Buying

This Report Is Not an Approval or Disapproval of This Condominium Project

It reflects information obtained by the Real Estate Commission in its investigation of the project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project until

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

Issued: October 16, 1978

Expires: November 16, 1979

SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED APRIL 20, 1978, AND INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 10, 1978. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Report on June 16, 1978 on the KUHALE KAPAHULU, Registration No. 997, the Developer reports that certain material changes have been made in the project. This Final Public Report (white paper stock) amends the Preliminary Public Report (yellow paper stock) becoming a part of the KUHALE KAPAHULU registration. The Developer is responsible for placing a true copy of this Final Public Report in the hands of all purchasers and prospective purchasers along

with a copy of the Preliminary Public Report. The Developer is responsible for securing from each purchaser or prospective purchaser a signed receipt, signifying that he has had an opportunity to read all reports.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.
3. The basic documents (Declaration of Horizontal Property Regimes, By-Laws of the Association of Apartment Owners) were executed on June 1, 1978 and was filed in the Office of the Assistant Registrar, Land Court, State of Hawaii as Document No. 880549 and noted on Transfer Certificate of Title No. 200,381. A copy of the floor plans has been filed as Condominium Map No. 329 in said Office. The First Amendment to the Declaration and By-Laws dated June 22, 1978 was filed in the said Office as Document No. 889034. The Second Amendment to the Declaration and By-Laws dated September 20, 1978 was filed in said Office as Document No. 899076.
4. Advertising and promotional matter has been filed pursuant to the Rules and Regulations promulgated by the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the condominium Rules and Regulations which relate to the Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after date of issuance October 16, 1978, unless a Supplementary Public Report issues or the Commission upon review of the registration issues an order extending the effective period of this report.

The information in the Preliminary Public Report of June 16, 1978 under the topical headings DEVELOPER, DESCRIPTION, PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE, OWNERSHIP OF TITLE, ENCUMBRANCES, PURCHASE MONEY HANDLING and STATUS OF PROJECT have been changed. The Developer reports that no further information in the Preliminary Public Report has been changed.

DEVELOPER: Kuhale Housing Corp. remains as the Developer. The documentation for this project at the request of the Hawaii Housing Authority, 1002 North School Street, Honolulu, Hawaii, has been changed to reflect the fact that the Hawaii Housing Authority is the Seller in the Sales Contract, Apartment Deed, Escrow Agreement, Broker Listing Agreement and Management Agreement.

DESCRIPTION: On the layout and area of the condominium units the purchaser is advised to examine the revised sheets of the Condominium Map to note the changes. The total floor area for the

apartments as revised is attached in Exhibit "A" attached hereto. The Second Amendment to the Declaration and By-Laws has been filed to correct the first sheet of the Condominium Map 329 to reflect the 29 numbered parking stalls and 12 guest parking stalls.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that the apartments can be occupied and used as lodging for residential apartment uses only subject to such limitations as may be contained in the Declaration, By-Laws and House Rules. The use of the apartments for rentals has been deleted except for the Hawaii Housing Authority and Developer if it retains any apartments. (See Exhibit "B" attached hereto.)

OWNERSHIP OF TITLE: The Supplemental Commitment for Title Insurance effective as of September 22, 1978 issued by First American Title Co. of Hawaii, Inc. certifies that the fee simple title to the land submitted to the Horizontal Property Regime is the Hawaii Housing Authority, a public body and body corporate and politic in the State of Hawaii.

ENCUMBRANCES AGAINST TITLE: The foregoing title insurance commitment reflects the following additional encumbrances other than those previously reported in the Preliminary Title Report:

5. AS TO PARCEL SIXTH ONLY:

(a) Designation of Easement "B" over and across Lot 89-B-2, as shown on Map 17, as set forth by Land Court Order No. 8363, filed July 1, 1948.

(b) Delineation of Easement for sanitary sewer purposes over and across said Lot 89-B-2, as shown on Map 28, as set forth by Land Court Order No. 12776, filed April 8, 1954.

(c) That certain Grant in favor of the City and County of Honolulu, granting easement to construct underground sewer pipe lines under and across said Lot 89-B-2, dated March 1, 1954, filed in said Office of the Assistant Registrar as Document No. 159466.

6. The restrictions, covenants, agreements, obligations, conditions, easements and other provisions set forth in Declaration of Horizontal Property Regime dated June 1, 1978, filed on June 14, 1978 in said Office of the Assistant Registrar as Document No. 880549, and the By-Laws attached thereto as amended on June 22, 1978 and filed as Document No. 889034.

By instruments dated June 22, 1978 and September 20, 1978 filed on July 26, 1978 and September 22, 1978 in said Office of the Assistant Registrar as Documents No. 889034 and 899076, respectively, the foregoing Declaration of Horizontal Property Regime was amended.

PURCHASE MONEY HANDLING: The sales document and escrow agreement have been changed to reflect the fact that the Hawaii Housing Authority is the Seller instead of the Developer. An Escrow


Agreement dated June 1, 1978 has been executed between Hawaii Housing Authority, as Seller, and First American Title Co. of Hawaii, Inc., as Escrow. The other terms and conditions of the Escrow Agreement are still the same. The Apartment Deed and related project documents have all been changed to reflect the fact that the Hawaii Housing Authority is the Seller. It should be noted that there are eligibility requirements for purchase of apartments that have been imposed by the Hawaii Housing Authority and a drawing has been held under a lottery system to reflect the purchasers. Also, there has been restrictions placed in the Sales Contract, Declaration and Deeds which restrict the transfer of apartments under the provisions of Sections 359G-9.2 through 359G-9.4 inclusive, as amended, attached hereto as Exhibit "B" and incorporated herein by reference.

The provisions in the specimen Sales Contract relative to the presales requirement of 75% of the apartments from the date of issuance of the Preliminary Public Report or 180 days from date of issuance of the Final Public Report and the right of developer to increase unit sale prices due to increases in development and construction costs have been deleted.

STATUS OF PROJECT: The Developer advises that work has commenced on June 8, 1978 by the Contractor and the estimated completion date is December 31, 1978.

The purchaser or prospective purchaser should be cognizant of the fact that this public report represents information disclosed by the Developer in the required Notice of Intention submitted April 20, 1978 and information subsequently filed as of October 10, 1978.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 997 filed with the Commission on April 20, 1978. The report when reproduced shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



AH KAU YOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:
DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, CITY AND COUNTY OF HONOLULU
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

Registration No. 997

October 16, 1978

KUHALE KAPAHULU

| BLDG | UNIT NO. | NO. OF BR | UNIT TYPE | A R E A | | | | | TOTAL S.F. |
|------|----------|-----------|-----------|---------|--------|---------|------|-------|------------|
| | | | | GRD FL | 2ND FL | LANAI | DECK | | |
| E | 1 | 3 | III | 605 | 417 | 45 & 25 | | 1,092 | |
| E | 2 | 2 | I | 368 | 408 | 42 | | 818 | |
| F | 3 | 2 | I | 368 | 408 | 42 | | 818 | |
| F | 4 | 2 | I | 368 | 408 | 42 | | 818 | |
| F | 5 | 3 | IV | 590 | 417 | 45 & 42 | | 1,094 | |
| F | 6 | 3 | V | 524 | 417 | 45 | | 985 | |
| F | 7 | 2 | I | 368 | 408 | 42 | | 818 | |
| F | 8 | 2 | I | 368 | 408 | 42 | | 818 | |
| F | 9 | 3 | III | 605 | 417 | 45 & 25 | | 1,092 | |
| A | 10 | 3 | II | 489 | 417 | | 174 | 1,080 | |
| A | 11 | 2 | I | 368 | 408 | 42 | | 818 | |
| A | 12 | 2 | I | 368 | 408 | 42 | | 818 | |
| A | 13 | 2 | I | 368 | 408 | 42 | | 818 | |
| A | 14 | 2 | I | 368 | 408 | 42 | | 818 | |
| A | 15 | 2 | I | 374 | 417 | 43 | | 834 | |
| B | 16 | 2 | I | 374 | 417 | 43 | | 834 | |
| B | 17 | 2 | I | 368 | 408 | 42 | | 818 | |
| B | 18 | 2 | I | 368 | 408 | 42 | | 818 | |
| B | 19 | 2 | I | 368 | 408 | 42 | | 818 | |
| B | 20 | 2 | I | 374 | 417 | 43 | | 834 | |
| C | 21 | 3 | II | 523 | 417 | | 184 | 1,124 | |
| C | 22 | 3 | II | 512 | 408 | | 180 | 1,100 | |
| C | 23 | 3 | II | 512 | 408 | | 180 | 1,100 | |
| C | 24 | 3 | II | 512 | 408 | | 180 | 1,100 | |
| C | 25 | 3 | II | 523 | 417 | | 184 | 1,124 | |
| D | 26 | 3 | II | 523 | 417 | | 184 | 1,124 | |
| D | 27 | 3 | II | 512 | 408 | | 180 | 1,100 | |
| D | 28 | 3 | II | 498 | 408 | | 180 | 1,086 | |
| D | 29 | 2 | I | 374 | 417 | 43 | | 834 | |

Summary of units

| | | |
|---------------|---|----|
| 2 BR Type I | - | 16 |
| 3 BR Type II | - | 9 |
| 3 BR Type III | - | 2 |
| 3 BR Type IV | - | 1 |
| 3 BR Type V | - | 1 |

TOTAL UNITS 29

Exhibit "B"

Section 359G-9.2, as amended. Dwelling units; restrictions on transfer, waiver restrictions.

- (a) The following restrictions shall apply to transfer of a dwelling unit purchased from the authority, whether fee simple or leasehold property;
- (1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed or agreement of sale, if the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the first option to purchase the unit and property or lease at a price which shall not exceed the sum of:
- (A) The original cost to the purchaser;
- (B) The cost of any improvements added by the purchaser; and
- (C) Simple interest on the purchasers' equity in the property at the rate of seven percent a year.

The authority may purchase the unit either: (1) outright, free and clear of all liens and encumbrances; or (2) by transfer subject to an existing mortgage.

If by outright purchase, the authority shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the purchaser.

In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the purchaser to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In such cases, the amount to be paid to the purchaser by the authority shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

- (2) After the end of the tenth year from the date of purchase, or execution of an agreement of sale, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions; provided that the purchaser shall be required to pay to the authority the sum of:
- (A) The balance of any mortgage note, agreement of sale, or other amount owing to the authority;

- (B) Any subsidy made by the authority or the State not counted as cost under Section 359G-8 but charged to the dwelling unit by good accounting practice as determined by the authority whose books shall be prima facie evidence of the correctness of the cost; and
 - (C) Interest on the subsidy prescribed under Subparagraph (B) above computed from the date of the purchase, or execution of the agreement of sale, at the rate of seven percent a year; provided that if any proposed sale or transfer will not generate an amount sufficient to pay the authority the sum as computed under Paragraph (2) above the authority shall have the first option to purchase the dwelling unit at a price which shall not exceed the sum as computed under Paragraph (1) above.
- (b) The restrictions prescribed in Subsection (a) above may be waived if:
- (1) The purchaser wishes to transfer title to the dwelling unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the authority; or
 - (2) The authority determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit, at a price and upon terms as it shall set, preserves the intent of this section without the necessity of the State to repurchase the unit; provided that the restrictions prescribed in Subsection (a) above shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee.
- (c) The restrictions prescribed in Subsection (a) above shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder becomes the owner of a dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding a mortgage under a mortgage covering a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the authority shall prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under Chapter 667. The authority shall be a party to any proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to actual costs

and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of Subparagraph (a) (1) (B) and (C) and the purchaser's equity in the property.

- (d) The provisions of this section shall be incorporated in any deed, lease, mortgage, agreement of sale, or other instrument of conveyance issued by the authority.

Section 359G-9.3, as amended. Dwelling units; restrictions on use.

- (a) A dwelling unit purchased from the authority shall be occupied by the purchaser at all times.
- (b) Violation of Subsection (a) shall be sufficient reason for authority, at its option, to purchase the unit as provided in Section 359G-9.2 (a) (1), or 359G-9.2 (a) (2), as applicable.
- (c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

Section 359G-9.4. Restrictions on use, sale and transfer of dwelling units; effect of amendment or repeal.

- (a) Restrictions on the use, sale and transfer of dwelling units shall be made as uniform as possible in application to purchasers of all units, and restrictions shall be conformed with agreement of the purchaser to reflect change or repeal made by any subsequent legislative act, ordinance, rule or regulation. Dwelling unit purchasers shall be permitted at their election to sell or transfer units subject to restrictions in effect at the time of their sale or transfer.
- (b) The authority, any other department of the State, or any county housing agency maintaining restriction, through contract, deed, other instrument, or by rule or regulation, shall notify all purchasers of any change in restrictions made by law, ordinance, rule or regulation not more than one hundred eighty (180) days after the effective date of this Act or of a change in restriction, as the case may be, and such notice shall clearly state the enacted or proposed new provisions, the date or dates upon which they are to be effective and offer to each purchaser of dwelling units constructed and sold prior to such effective date, an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions.
- (c) Where the restrictions on transfer of property apply for a period of time, the period of time shall not be increased beyond the date calculated from the date of original purchase.
- (d) No dwelling unit purchaser shall be entitled to modify the restrictions on use, transfer, or sale of the dwelling

unit, without the written permission of the holder of a duly-recorded first mortgage on the dwelling unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first mortgage or the owner is an agency of the State or its political subdivisions.

- (e) This section shall apply to all dwelling units developed, constructed and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale or transfer of interest in the dwelling unit purchased.
- (f) The provisions of this section shall be incorporated in any deed, lease, instrument, rule or regulation relating to restrictions on use, sale or transfer of dwelling units, entered into after the effective date of this Act.

Subject to the provisions of Section 264-3, H.R.S., that if the roadways herein granted are abandoned and disposed of, the proceeds from the sale thereof shall be remitted to the State of Hawaii for deposit in the appropriate funds.