

**REAL ESTATE COMMISSION**

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

**PRELIMINARY  
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)  
PUBLIC REPORT**

ON

KIAHUNA (PHASE V)  
Poipu, Island and County of Kauai

REGISTRATION NO. 1080

**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 but may only take reservations therefore after

- (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: February 26, 1979  
Expires: March 26, 1980

SPECIAL ATTENTION

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

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION FILED JANUARY 25, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY SUBMITTED AS OF FEBRUARY 21, 1979. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514A, HAWAII REVISED STATUTES.

1. KIAHUNA (PHASE V) is a proposed leasehold condominium project consisting of three (3) buildings without basements and containing forty-eight (48) beachhouse units. There is a total of seventy-two (72) parking stalls in the Project.

2. The Developer of the project has filed all documents and materials deemed necessary by the Commission for the registration of this proposed condominium project and the issuance of this Preliminary Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of the approved Floor Plans) have not yet been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

4. No advertising or 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 the Horizontal Property Act, Chapter 514A of the Hawaii Revised Statutes, as amended, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, February 26, 1979, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. This Preliminary Public Report is made a part of the registration on KIAHUNA (PHASE V) condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the Receipt for the Preliminary Horizontal Property Regime Public Report from each purchaser is also the responsibility of the Developer.

NAME OF PROJECT: KIAHUNA (PHASE V)

LOCATION: The approximately 3.216 acres of land to be submitted to the horizontal property regime are situated at Poipu, Island and County of Kauai, State of Hawaii.

TAX MAP KEY NO.: 2-8-17:10

ZONING: R-20

DEVELOPER: MOANA/KAUAI CORPORATION, a California corporation, the principal place of business and post office address of which is Suite 4340, 555 California Street, San Francisco, California; Phone: (415) 788-7421. The officers of the corporation are: Robert L. Harmon, President; Frank J. Supon, Vice President and Treasurer; and Donna G. Sidelinger, Secretary, all of whose business address is Suite 4340, 555 California Street, San Francisco, California.

ATTORNEY REPRESENTING DEVELOPER: Hamilton, Gibson, Nickelsen, Rush & Moore (Attention: Dwight M. Rush and D. Scott MacKinnon), 20th Floor Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813, Phone: 521-2611.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a leasehold condominium project consisting of forty-eight (48) condominium apartment units, which spaces, together with appurtenant lanais, if any, are referred to therein as "Beachhouses", and are contained in three (3) buildings without basements, of wood frame construction with redwood and cedar exteriors and cedar shingle roofs; there is one (1) two-story building, being Building No. 3 and two (2) three-story buildings, being Buildings Nos. 4 and 5. Said Buildings and Beachhouses are designated on said Condominium Map and described as follows:

(a) The buildings of the Project are constructed according to two (2) different models, designated Model A-2 and Model B-1. Building No. 3 is constructed according to the layout designated on said plans as Model B-1; Building Nos. 4 and 5 are constructed according to the layout designated on said plans as Model A-2.

(b) Beachhouses 401, 402, 403, 404, 405 and 406 are located on the first floor of Building 5; Beachhouses 407, 408, 409, 410, 411 and 412 are located on the second floor of Building 5; Beachhouses 413, 414, 415, 416, 417 and 418 are located on the third floor of Building 5; Beachhouses 419, 420, 421, 422, 423 and 424 are located on the first floor of Building 4; Beachhouses 425, 426, 427, 428, 429 and 430 are located on the second floor of Building 4; Beachhouses 431, 432, 433, 434, 435 and 436 are located on the third floor of Building 4; Beachhouses 437, 438, 439, 440, 441 and 442 are located on the first floor of Building 3; and, Beachhouses 443, 444, 445, 446, 447 and 448 are located on the second floor of Building 3.

(c) The beachhouses are all constructed according to the same floor plan. Each contains one (1) bedroom, a bathroom, a living area, dining area, kitchen, an entry lanai and a lanai, with a total floor area of approximately 880 square feet, including the lanais.

(d) Each of the beachhouses has immediate access to the grounds of the Project and/or to a corridor which leads to stairways leading to the grounds of the Project and the walkways connecting the building in which it is located to the street entrance and parking areas of the Project.

(e) The respective beachhouses shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each beachhouse or any pipes, wires, conduits or other utility or service lines running through such beachhouses which are utilized for or serve more than one beachhouse, the same being deemed common elements as hereinafter provided. Each beachhouse shall be deemed to include all the walls and partitions which are not load bearing within its perimeter or party walls, the inner decorated or finished

surfaces of all walls, floors and ceilings, doors and door frames, windows and window frames, the exterior air space bounded by the interior of the lanai railing, and all fixtures originally installed therein, including a built-in range and oven, refrigerator, dishwasher, garbage disposal, sink and water heater.

COMMON ELEMENTS: The proposed Declaration states that one (1) freehold estate is designated in all remaining portions of the Project, therein called the "common elements", including specifically but not limited to:

- (a) Said land in fee simple;
- (b) All foundations, floor slabs, columns, beams, supports, load-bearing walls, roofs, chases, entry halls, stairs, walkways, entrances and exits of the buildings of the Project;
- (c) All yards, grounds, landscaping, refuse and service areas, and trash disposal equipment;
- (d) All parking areas, including without limitation Parking Stall Nos. 1 through 72 as designated on said Condominium Map;
- (e) All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one beachhouse for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any;
- (f) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: There are no limited common elements in this Project.

INTEREST TO BE CONVEYED TO PURCHASERS: The proposed Declaration states that the beachhouses shall have appurtenant thereto an undivided percentage interest in all common elements of the Project (therein called the "common interest") and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting, as follows:

	<u>Beachhouse No. (s)</u>	<u>Common Interest</u>
(a)	All Beachhouses, except for Beachhouse 431	2.0833%
(b)	Beachhouse 431	2.0849%

NOTE: The Developer advises that it owns a tennis club known as the "Kiahuna Tennis Club" and that it proposes to enter into a License Agreement with the Association of Beachhouse Owners of Kiahuna (Phase V) under the terms of which the owner of a beachhouse in the Project and his respective family, tenants or guests shall have a non-exclusive license to use the recreational facilities of the Kiahuna Tennis Club upon the payment by the Association of a reasonable monthly fee to

be determined on an annual basis by the owner of the Kiahuna Tennis Club, provided, however, that at no time shall such monthly fee exceed 48/171 of the amount payable by Kiahuna Beach House, Ltd. with respect to the Kiahuna (Phase II) condominium project (i.e., 5% of the gross revenues from the rental of units in Kiahuna (Phase II) for the preceding month). This license fee will constitute a portion of the Association's expenses which are reflected in the monthly assessment for common expenses against the respective beachhouses.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the beachhouses shall be occupied and used by the respective owners thereof, their families, tenants and personal guests only for residential purposes, including resort hotel use and for no other purpose.

OWNERSHIP OF TITLE: A Preliminary Title Report dated January 15, 1979, issued by Security Title Corporation discloses that FIRST HAWAIIAN BANK, a Hawaii corporation, and VALDEMAR L'ORANGE KNUDSEN, Trustees under Deed of Trust of Eric A. Knudsen dated April 30, 1922, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 639, Page 326, and also filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 27057, as amended, and BISHOP TRUST COMPANY, LIMITED, a Hawaii corporation, as Trustee under Deed of Trust of Augustus F. Knudsen, dated December 22, 1924, recorded as aforesaid in Liber 759, Page 399, as amended, are the owners of the fee simple title to the property to be submitted to the horizontal property regime.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report as submitted to the Real Estate Commission discloses that the following are encumbrances against title to the property:

1. That certain Increment Lease No. 1, dated January 1, 1979, by and between First Hawaiian Bank and Valdemar L'Orange Knudsen, Trustees of the Eric A. Knudsen Trust and Bishop Trust Company, Limited, Trustee of the Augustus F. Knudsen Trust, as Lessor, and Moana/Kauai Corporation, as Lessee, filed in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 919328.

2. Designation of Easement "H" located over and across the Westerly (side) portion of Lot 2, as shown on Map 1, as set forth by Land Court Order No. 35148, filed May 23, 1972.

3. For any taxes that may be due and owing reference is made to the Tax Assessor, Fourth Division.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated November 20, 1978, between Security Title Corporation, as Escrow, and Developer has been filed with the Commission. On examination, the executed Escrow Agreement filed with the Commission is found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly

Sections 514A-40(6), 514A-39, and 514A-63 through 514A-66, H.R.S. Among other provisions, the executed Escrow Agreement states that a purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said purchaser, without interest, and less Escrow's cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

1. Escrow receives a written request from Developer to return to purchaser the funds of such purchaser then held under the Escrow Agreement by Escrow; or

2. If a purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the condominium building plans, subsequent to the execution of purchaser's sales contract, requiring the approval of a County officer having jurisdiction over the issuance of permits for construction of building, unless the purchaser has given written approval or acceptance of the change; or

3. If a purchaser's funds were obtained prior to the issuance of a Final Public Report and the request is prior to the time the Final Public Report is issued; or

4. If the Final Public Report differs in any material respect from the Preliminary Public Report, unless the purchaser has given written approval or acceptance of the difference; or

5. If the Final Public Report is not issued within one year of the date of issuance of the Preliminary Public Report.

It is incumbent of the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the Condominium Reservation Agreement since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's funds. The Specimen Condominium Reservation Agreement specifically provides that the purchaser approve said Escrow Agreement, assume the benefits and obligations therein provided, and agree to the subordination of his interest in the Condominium Reservation Agreement to the lien of any construction mortgage. Purchasers and prospective purchasers are advised to read with care the provisions of the Condominium Reservation Agreement.

MANAGEMENT OF THE PROJECT: The proposed By-Laws which are incorporated in the draft Declaration provided that the operation of the Project shall be conducted for the Association of Beachhouse Owners by a responsible corporate Managing Agent under the direction of the Board of Directors. The Developer in its Notice of Intention indicates that it will be the initial managing agent for the project. As provided in Section 514A-84 of the Hawaii Revised Statutes, the management contract will provide that it is for a term of one (1) year and may be terminated by either party upon sixty (60) days prior written notice.

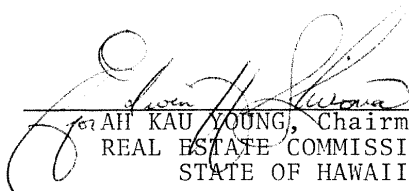
NOTE: The Developer advises that in conjunction with the sale of the beachhouses in the Project it is not offering to provide services relating to the rental of beachhouses in the Project and no representation or reference to that effect has been made or will be made by or on behalf of the Developer. Rental or other disposition of the beachhouses and the provision of management services in connection therewith is the sole responsibility of the purchaser.

NOTE: The Developer advises that pursuant to Paragraph F-25 of the Specimen Condominium Reservation Agreement the purchaser shall agree that until Developer has closed out the sale of all apartments in Project or until December 31, 1980, whichever shall first occur, the purchaser will not enter into a "rental pool" or similar agreement with any purchaser, lessee or owner of another apartment in the Project and/or any third party.

STATUS OF PROJECT: The Developer advises that it has not yet entered into a construction contract for construction of the Project and therefore has not yet determined an estimated date for the start of or completion of construction.

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The purchaser and prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted January 25, 1979, and information subsequently submitted as of February 21, 1979.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 1080 FILED WITH THE Commission January 25, 1979. This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be yellow.

  
ALAN KAU YOUNG, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING COMMISSION, COUNTY OF KAUAI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

REGISTRATION NO. 1080

February 26, 1979