

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

PU'U PŌ 'Ā
Ka Haku Road
Princeville, Kauai

REGISTRATION NO. 1093

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: April 27, 1979
Expires: May 27, 1980

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers 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 ON FEBRUARY 11, 1979, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF APRIL 26, 1979. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. PU'U PŌ 'Ā is a proposed fee simple condominium project consisting of fifty-six (56) residential apartment units, all to be built in accordance with floor plans filed with the Real Estate Commission. The project will contain eighty-six (86) parking spaces.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for this Preliminary Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.
3. Advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the Condominium Map) have not been filed in the Bureau of Conveyances of the State of Hawaii.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, April 27, 1979, unless a Supplementary or Final Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: PU'U PŌ 'Ā

LOCATION: The project is located at Ka Haku Road, Princeville at Hanalei, Island and County of Kauai, State of Hawaii. A Preliminary Title Report issued by Title Guaranty of Hawaii, Incorporated, dated February 12, 1979, indicates that the land consists of 12.254 acres. A survey prepared by Wes Thomas and Associates, Inc. dated October 18, 1978 and revised January 5, 1979 and February 22, 1979, indicates that due to changes in the shoreline the area of the land has diminished to approximately 11.060 acres, more or less. The Declaration provides that the Developer may withdraw certain designated portions of the land from the project in the Horizontal Property Regime created by said Declaration, and the Developer has indicated that it intends to withdraw at least some portions of the designated land. The areas of land designated for possible withdrawal contain a total of 3.738 acres. (See the section entitled "Developer's Option to Withdraw Common Elements" on page 11 of this report for more specific information.)

TAX KEY: Fourth Division, portions of 5-4-12-4

ZONING: RR20 and open

DEVELOPER: Stark-Gray Associates, a registered Hawaii general partnership, with its principal place of business and post office address at 1910 Ala Moana Boulevard, Penthouse 41A, Honolulu, Hawaii 96815 (Tel. No. 946-1144). The general partners of the partnership are:

Stark Kauai, Ltd.	Gray Development Corporation
1910 Ala Moana Boulevard	841 Bishop Street
Penthouse 41A	Suite 2102
Honolulu, Hawaii 96815	Honolulu, Hawaii 96813

ATTORNEY REPRESENTING DEVELOPER: Carlsmith & Dwyer, Suite 2102
Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813
(Attention: Charles Edward Pear, Jr. or Curtis W. Carlsmith),
Tel. No. 524-7200.

DESCRIPTION OF THE PROJECT: The project shall contain three separate apartment buildings constructed principally of glass, concrete, steel reinforcing bars, concrete masonry unit blocks, wood siding, wood doors, aluminium window frames, and gypsum board. The buildings are herein and on the Condominium Map numbered 1, 2 and 3, from west to east. Buildings 1 and 2 shall each contain 24 apartments and shall consist of three stories plus basement (hereinafter called levels one through four), with 6 apartments on each level. Building 3 shall contain 8 apartments and shall consist of three stories plus basement (hereinafter called levels one through four), with 2 apartments on each level.

In addition to the apartment buildings there shall also be a separate manager's residence which shall consist of one story without basement which shall be deemed common element and not as an apartment. It contains one bedroom, one bathroom, living/dining room, kitchen, and a maintenance workshed/storage area.

Description of the Apartments: The proposed Declaration of Horizontal Property Regime provides for fifty-six (56) separate condominium apartments designated in the spaces within the perimeter and party walls, floors and ceilings of each of the fifty-six (56) apartment units of the property, distributed among the three apartment buildings in the property as described above, which spaces together with appurtenant lanai air spaces are referred to herein as "apartments", and are designated on the condominium map and described as follows:

(1) Apartment Numbers and Locations: The apartments on each floor of the buildings are numbered consecutively from left to right as each building is faced from the parking area behind it. Each apartment has a three digit number with the first number being the number of the level on which the apartment is located. The apartments in building 1 are numbered as follows: 101 to 106 on level 1; 201 to 206 on level 2; 301 to 306 on level 3; 401 to 406 on level 4. The apartments in building 2 are numbered as follows: 107 to 112 on level 1; 207 to 212 on level 2; 307 to 312 on level 3; 407 to 412 on level 4. The apartments in building 3 are numbered as follows: 113 and 114 on level 1; 213 and 214 on level 2; 313 and 314 on level 3; 413 and 414 on level 4.

(2) Layout and Area of Individual Apartments: All fifty-six (56) apartments shall utilize a common interior and lanai

floor plan, except that the floor plan of each even-numbered apartment shall be the reverse or opposite hand of each odd-numbered apartment. Each apartment shall contain two (2) bedrooms, two (2) bathrooms, a living room, a dining room and a kitchen, having a combined floor area of approximately 1,359 square feet for end units and 1,352 square feet for interior units. Each apartment also has a lanai with a floor area of approximately 425.5 square feet for end units and 419 square feet for interior units. Each apartment also has an atrium with floor areas as follows: Apartments 101 to 114 and 201 to 214 have an atrium of approximately 294.5 square feet; Apartments 301 to 314 have an atrium of approximately 374.8 square feet; Apartments 401 to 414 have an atrium of approximately 406 square feet.

NOTE: In accordance with local practice, the approximate floor area of each apartment as set forth above includes all of the walls and partitions within its perimeter walls, the entirety of its perimeter non-party walls and the interior half of its perimeter party walls, whether load bearing or non-load bearing. The difference in area between end units and interior units arises primarily from this practice.

The distinguishing characteristics between the apartments are as follows:

<u>UNIT TYPE</u>	<u>CHARACTERISTICS</u>	<u>APARTMENT NUMBERS</u>	<u>TOTAL APPROXIMATE AREA</u>
A	First level end unit, covered lanais and atriums, lanais have direct access to the grounds	101, 106, 107, 112	2,079
A-1	Same as A, except that lanais do not have direct access to grounds	113, 114	2,079
B	Same as A, except interior unit, location of kitchen sink and stove top reversed	102-105, 108-111	2,065.5
C	Second level end unit, open lanais and atriums, window in kitchen and dining room	201, 206, 207, 212-214	2,079
D	Second level interior unit, same as C except no window in dining room and kitchen and location of kitchen stove top and sink reversed	202-205, 208-211	2,065.5
E	Third level end unit, same as C except for larger atrium	301, 306, 307, 312-314	2,159.3
F	Third level interior unit, same as D except for larger atriums	302-305, 308-311	2,145.8
G	Fourth level end unit, same as E except for larger atriums and high ceilings in living room	401, 406, 407, 412-414	2,190.5
II	Fourth level interior unit, same as F except for larger atriums and high ceilings in living room	402-405, 408-411	2,177

(3) Access to Common Elements: Each apartment has immediate access to the grounds of the property or to a walkway or stairway leading to the grounds of the property and to Ka Haku Road.

(4) Other Data Identifying and Defining the Apartments: The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, awnings (if any), the floor and ceiling surrounding each apartment or any pipes, wires, conduits or other utility or service lines which are utilized for or serve more than one apartment, the same being common elements as hereinafter provided. Each apartment 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, lanai and atrium air space, planter areas, if any, adjacent to lanais and atriums, and all fixtures originally installed in the apartment.

COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime states that the common elements shall include all the remaining portions of the project including specifically, but not limited to:

(1) Said land in fee simple;

(2) All structural components, such as foundations, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways and fire escapes, entrances, exits, floor slabs, unfinished perimeter, party and load-bearing walls, awnings and walkways of said buildings;

(3) All common spaces such as yards, gardens, planting areas other than those adjacent to lanais or atriums, swimming pool, tennis court, other recreational facilities, storage space, trash collection area, all parking areas, driveways and access lanes;

(4) All common premises such as the manager's residence, transformer pad, electrical and television service centers, and other premises for the use of janitors or other persons employed for operation of the property, if any;

(5) Installations for services such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under, or across the property which serve more than one apartment for services such as power, light, gas, hot water, cold water, ventilation, sewage, telephone, radio and television signal distribution, if any;

(6) Any apparatus and installations existing for common use, such as tanks, pumps, motors, fans, compressors, ducts, vents, and other such installations and apparatus;

(7) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(8) The twenty-eight (28) guest parking stalls, numbered 9-14 and 17-38 as shown on the condominium map and located on the ground level of the building, available for use by all apartment owners, their tenants and guests;

(9) Parking stalls 15 and 16 as shown on the condominium map, to be used only by the Managing Agent.

LIMITED COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime provides that certain parts of the common elements, called "limited common elements" are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

(1) Each apartment shall have for its exclusive use one parking stall as designated in the schedule set forth in Exhibit "A" attached hereto.

(2) All other common elements of the property which are rationally related to less than all of said apartments shall be limited common elements appurtenant to the apartments to which they are so related.

Notwithstanding the foregoing, the apartment owners shall have the irrevocable right, to be exercised by the Board of Directors, to have access to any limited common element to effect emergency repairs and from time to time during reasonable hours to effect other repairs, improvements, or replacements, or maintenance deemed necessary.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto a one-fifty-sixth (1/56) fractional interest (approximately an undivided 1.785+ percentage interest) in all common elements of the property (herein 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.

EASEMENTS: The proposed Declaration of Horizontal Property Regime provides that the apartments and common elements (including limited common elements) shall have and be subject to a number of easements including but not limited to the following which the Purchaser should note:

(1) The Developer shall have the irrevocable right to conduct extensive sales activities on the property, including the use of model apartments, sales and management offices, and extensive sales displays and activities until the earlier to occur of (a) thirty-six (36) months from the date of the recording in the Bureau of Conveyances of the first apartment deed; or (b) the closing of the sale of the last unsold apartment in the project. In the event that the Developer is unable to sell all of the apartments within the thirty-six (36) month period, the Developer shall have the right to conduct sales activities on the property until the closing of the sale of the last unsold apartment in the project provided that such sales activities are conducted in an unobtrusive manner which will not unreasonably interfere with the use, possession and aesthetic enjoyment of the property by the other apartment owners. In the event that the Developer's mortgage lender or any successor to or assignee of the Developer's mortgage lender shall acquire any portion of the property in the course of any foreclosure or

other legal proceeding or by an assignment in lieu of foreclosure, such mortgage lender, its successors and assigns shall have the right to conduct such extensive sales activities on the property until at least ninety-five percent (95%) of all of the apartments have been sold and closed, notwithstanding the foregoing.

(2) The Developer, its agents, employees, contractors, licensees, successors, and assigns shall have an easement over and upon the property as may be reasonably necessary for the completion of improvements to and correction of defects in the property. Such easement shall terminate twenty-four (24) months after the later of (i) the date of the recording in the Bureau of Conveyances of the State of Hawaii of the first apartment deed, or (ii) "substantial completion" (as the term is used in Chapter 507, Part II, Hawaii Revised Statutes) of the improvement to be completed or corrected.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration of Horizontal Property Regime provides:

(1) The apartments are intended to be used as residential dwellings, but such apartments may be leased or rented from time to time to transients, subject to the House Rules and Regulations, and provided, that any Rules or Regulations shall be consistent with the terms of the Declaration and the By-Laws;

(2) The owners of the respective apartments shall have the absolute right to sell, lease, rent, or otherwise transfer such apartments, provided, however, that no apartment owner may sell, lease, rent, or otherwise transfer less than the entire apartment; and

(3) No apartment owner shall use his apartment or appurtenant limited common elements for any purpose which will injure the reputation of the property, or suffer anything to be done or kept in his apartment or elsewhere on the property which will (a) jeopardize the soundness of the property, (b) interfere with or unreasonably disturb the rights of other owners and occupants, (c) obstruct the corridors or stairways of the building, (d) reduce the value of the property, or (e) increase the rate of fire insurance on the apartments or the contents thereof.

The proposed House Rules provide, in part: (1) Occupancy is limited to not more than two persons per bedroom except that this occupancy may be exceeded by members of the immediate family of the owner, tenant or lessee, provided that in no event shall the number of occupants be more than five per bedroom; (2) No waterbeds shall be permitted in the apartments; (3) No livestock, poultry, rabbits or other animals shall be allowed on the premises except that household pets in reasonable number may be kept by the owners and occupants of residential apartments. All pets must be registered immediately with the Managing Agent.

PRINCEVILLE AT HANAIEI COMMUNITY ASSOCIATION: Each apartment owner, upon acquiring his apartment, shall become a member of the Princeville at Hanalei Community Association, a non-profit Hawaii corporation, which is separate from the Association of Apartment Owners of Pu'u Pō 'Ā. All apartment owners and any other persons or entities having a fee simple title to or a leasehold interest in any apartment, including contract purchasers, but excluding those having such interest merely as

security for the performance of an obligation, are subject to, bound by, and shall comply strictly with the provisions of that certain Declaration of Restrictions, Covenants and Conditions of the Princeville at Hanalei Community Association, referred to in the portion of this report entitled "Encumbrances Against Title". Each apartment owner, by accepting his interest in an apartment in the property, covenants with the Princeville at Hanalei Community Association and each of its members to abide by and comply with said Declaration of Restrictions, Covenants and Conditions, as it has been and may be further supplemented and amended from time to time, the Community Association Charter of Incorporation and By-Laws, and all rules and regulations lawfully promulgated thereunder from time to time.

OWNERSHIP OF TITLE: A Preliminary Title Report issued by Title Guaranty of Hawaii, Incorporated, dated February 12, 1979, reflects that fee simple title to the land is held in the name of Hasurf Corporation, a Hawaii corporation. By an unrecorded agreement dated August 2, 1973, Hasurf Corporation agreed to sell all of its interest in the land to the Developer.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report issued by Title Guaranty of Hawaii, Incorporated, dated February 12, 1979, states that title to the land is subject to the following encumbrances:

(1) Real property taxes--for any taxes that may be due and owing and a lien on the land, reference is made to the Office of the Tax Assessor, Fourth Division.

(2) Water and sanitation assessment and lien in favor of Kauai County Public Improvement Corporation, recorded in Liber 7486 at Page 292 (filed in the Land Court as Document No. 533440), as confirmed by instrument recorded in Liber 8192 at Page 257, and amended by instruments recorded in Liber 8222 at Page 388 (Land Court Document No. 576206), Liber 8743 at Page 1, Liber 9583 at Page 521 and Liber 10584 at Page 326.

The interest of Kauai County Public Improvement Corporation having been assigned to First Hawaiian Bank, Trustee, as security for the bond holders by instrument recorded in Liber 8192 at Page 276.

(3) Location of the seaward boundary in accordance with the law of the State of Hawaii, and shoreline setback line in accordance with County regulation and/or ordinance.

(4) Easement "P-1" (6 feet wide) for the purpose of pedestrian access, situate along the westerly (side) boundary of Lot 3, as shown on File Plan No. 1197. Said easement was granted to the County of Kauai by instrument dated August 9, 1974, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 10636 at Page 589.

(5) Declaration of Restrictions, Covenants and Conditions by Eagle County Development Corporation, dated March 1, 1971, recorded in Liber 7444 at Page 93, as amended by Declaration of Additional Land Annexed to Princeville at Hanalei, dated July 6, 1971, recorded in Liber 7663 at Page 264, and as it may be further amended from time to time.

(6) Reservation in favor of Princeville Corporation, its successors and assigns, of the right to grant roadway easement over and across any and all roadway lots shown on File Plan Nos. 1179 and 1197, to the purchaser, purchasers, lessee, lessees, owner or owners of each of the lots within Princeville at Hanalei and to any purchaser, purchasers, lessee, lessees, owner or owners of lots hereinafter created within Princeville at Hanalei; as reserved in Deed dated August 31, 1973, recorded in Liber 9461 at Page 128.

(7) Mortgage and Financing Statement by and between Lalakea Corporation, a Hawaii corporation, as Mortgagor, and Kassler & Co., a Colorado corporation, as Mortgagee, dated November 15, 1973, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9598 at Page 216, in the amount of \$770,000.00.

(8) That certain Development Loan Agreement dated November 15, 1973, recorded in Liber 9598 at Page 240, by and between Lalakea Corporation, a Hawaii corporation, and Kassler & Co., a Colorado corporation.

NOTE: Effective September 2, 1975, Kassler & Co. was merged into a new corporation called Security Pacific Mortgage Corporation, registered to do business in the State of Hawaii.

PURCHASE MONEY HANDLING: A specimen Condominium Reservation Agreement, Deposit Receipt and Sales Agreement (hereinafter called the "Reservation and Sales Agreement") and the Escrow Agreement have been submitted to the Real Estate Commission as part of the registration. The Escrow Agreement dated February 20, 1979, identified First Hawaiian Bank as the Escrow agent. Upon examination, the specimen Reservation and Sales Agreement and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly with §514A-40, §514A-39 and §514A-63 through §514A-67. The provisions of the Reservation and Sales Agreement and the Escrow Agreement should be carefully read by the purchasers. The specimen Reservation and Sales Agreement filed as part of the registration recites the conditions under which the purchaser acknowledges receipt of the Public Report.

Among other provisions, the Escrow Agreement provides that the purchaser shall be entitled to a refund of his funds only if (a) seller asks Escrow to refund the purchaser's funds or (b) seller notifies Escrow of seller's rescission of the Reservation and Sales Agreement or (c) the conditions provided in Sections 514A-63, 514A-64 or 514A-66 of the Horizontal Property Act (as amended on the date the Reservation and Sales Agreement becomes binding and effective) have been met and written notice thereof has been provided to the seller or (d) seller notifies Escrow of purchaser's cancellation of a reservation for the purchase of an apartment or of purchaser's exercise of the right to rescind the sales contract pursuant to any right of rescission stated therein.

Among other provisions, the specimen Reservation and Sales Agreement provides that:

(1) Reservation and Sales Agreements executed prior to the issuance of a Final Public Report for the project shall constitute a "reservation" and not a "binding contract" for the purchase of

an apartment. Accordingly, the reservation may be cancelled and terminated at any time at the option of either party (and purchaser shall receive a refund) until such time as the purchaser and seller execute a confirmation letter agreeing to render the Reservation and Sales Agreement a binding contract. Therefore, the purchaser should be aware that the execution of a Reservation and Sales Agreement prior to the issuance of a Final Public Report does not necessarily mean that the purchaser will be able to purchase the apartment reserved for the price stated or on the other terms stated in the Reservation and Sales Agreement, or on any terms at all.

(2) The seller makes no warranties, express or implied, with respect to the apartments, the project, or consumer products or other things installed therein, including warranties of merchantability, habitability, workmanlike construction, or fitness for a particular purpose. The seller does, however, agree to attempt to pass through to the purchaser the benefit of the general contractor's warranties, if any, and also the unexpired term, if any, of any assignable manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances in the apartment.

(3) The seller may cancel the Reservation and Sales Agreement and hold the purchaser in default if any material discrepancies are discovered between the financial information furnished by the purchaser and the purchaser's actual financial status. Seller may also cancel if the purchaser's application or eligibility for a mortgage loan is rejected or not approved within thirty (30) days after application. If purchaser proposes to pay the purchase price in cash and seller, in its sole discretion, after reviewing the written evidence submitted to it by purchaser, determines that seller is not satisfied as to purchaser's ability to make such cash payments, then seller may cancel the Reservation and Sales Agreement. Seller may also cancel the Reservation and Sales Agreement if the purchaser should die.

(4) The seller's mortgage loan (interim, renewals and extensions, used for acquiring the land, constructing the project, and associated costs) shall be and remain at all times a lien or charge on the project, including the individual apartments, prior to and superior to any and all other liens or charges on the project, and the purchasers intentionally waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest they may have under the Reservation and Sales Agreement in favor of the lien or charge on the project of the security interest of the lender. The purchasers also consent to seller's assignment by way of security of seller's interest in the Reservation and Sales Agreement and purchasers' escrow deposits to the lender. The purchasers also irrevocably appoint the Managing Agent to receive and accept service of process on behalf of the purchasers.

(5) The seller has made no representations with respect to the possibility or probability of rental or other income from the apartment or other economical benefits to be derived from the rental of the apartment, including but not limited to, any representations to the effect that seller or the Managing Agent of the project or a third party will provide services relating to the rental or sale of the apartment nor representations as to possible advantages from the rental of the apartment under federal or state tax laws. If purchaser wishes to rent the

apartment to third persons, purchaser must make his own arrangements. Purchaser further agrees and acknowledges that in the event that the offer to sell and the purchase of the apartment or the activities of purchaser with respect to the apartment are determined to be or alleged to give rise to any violation of any federal or state securities laws or regulations, the seller may obtain an injunction from any court enjoining any acts of purchaser which are or may be or are alleged to give rise to any such violation of securities laws or regulations, and seller may in addition pursue any other remedies and purchaser shall pay the seller's costs and attorneys' fees in connection therewith. In the event that the purchaser or anyone claiming by or through him or his apartment alleges that the offer to sell or the purchase of the apartment gives rise to any violation of federal or state securities or disclosure laws or regulations, the purchaser covenants not to sue for any remedy other than to sue for a refund of the purchase price and actual closing costs plus interest at 6% per annum from the date of closing to the date of repayment. The purchaser agrees to absorb any additional charges incurred with respect to the apartment as the reasonable use value of the apartment. The terms of this paragraph shall survive the closing, occupancy, and delivery of the apartment lease to the purchaser.

(6) The purchaser will pay all closing costs, including but not limited to, the escrow fee, conveyance taxes, all acknowledgment fees, all appraisal fees, all recording costs, charges for purchaser's credit report, costs for drafting of the mortgage and notes, and any assignment thereof, and costs of any title insurance. All applicable mortgage costs shall be paid by purchaser, and purchaser shall pay the nonrefundable start-up fee for commencement of the operations of the project by the Managing Agent and the Association of Apartment Owners. Real property taxes, maintenance costs and other prorations shall be made, and risk of loss shall transfer from seller to purchaser on the scheduled Closing Date as defined in the specimen Reservation and Sales Agreement. Purchaser shall execute all documents necessary for closing and deposit with escrow all funds other than proceeds of purchaser's first mortgage loan within five (5) days after receiving written notice to pre-close. Pre-closing may commence at any time thirty-five (35) days after the effective date of the Reservation and Sales Agreement.

It is incumbent upon purchasers and prospective purchasers that they read with care the specimen Reservation and Sales Agreement and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of the condominium units are placed in trust, as well as the retention and disbursement of funds.

MANAGEMENT AND OPERATION: The proposed By-Laws provide that the operation of the project shall be conducted for the Association of Apartment Owners by a responsible corporate managing agent. The managing agent shall be appointed by the Association, in accordance with the By-Laws, except that the managing agent for the initial period following the date of the organization of the Association of Apartment Owners may be appointed by the Developer without necessity of confirmation by the Association. The initial managing agent has not yet been finally selected.

DEVELOPER'S OPTION TO WITHDRAW COMMON ELEMENTS: The Developer has reserved an option to withdraw from the project certain common

element areas marked on Exhibit E of the Declaration as "possible withdrawal areas". A copy of the map showing the proposed areas of withdrawal is herein attached as Exhibit "B". The applicable provision in the Declaration provides as follows:

The Developer may but the Developer is under NO obligation to withdraw from the property the common element areas marked on Exhibit E as "possible withdrawal areas". Notwithstanding anything to the contrary in the Declaration, Developer shall, from time to time and at any time, have the right at its option, up to but not later than January 1, 1990, to require alteration of the property by withdrawing from the property any portion or all of the common element areas marked on Exhibit E attached thereto and made a part thereof as "possible withdrawal areas" on the following terms and conditions:

A. Developer shall, at Developer's expense and without being required to obtain the consent or joinder of any apartment owner, lien holder or other person, execute and record an amendment to the Declaration and the condominium map:

1) to withdraw the common element area or areas chosen for withdrawal; and

2) when applicable or necessary, to add, delete, relocate, realign, reserve and grant all easements and rights or ways over, under and on the common elements necessary or desirable, including but not limited to, easements and/or rights of ways for utilities, cesspools, sanitary and storm sewers, cable television, refuse disposal, driveways, parking areas and roadways, provided that such easements and/or rights of ways do not materially impair the use of any apartment or the common elements.

B. Every apartment owner and all holders of liens affecting any of the apartments in the project shall, if required by law or by Developer, join in, consent to, and execute all instruments and documents necessary or desirable to effect the withdrawals and/or the granting of easement and/or rights of ways provided for in such paragraph 15.

C. The withdrawal of an area shall become effective upon the recording with the Bureau of Conveyances of the State of Hawaii of (a) the amendment to the Declaration provided for in sub-paragraph A of such paragraph 15, (b) an exhibit or exhibits setting forth a description of the land withdrawn from the property as a common element, and (c) a memorandum of withdrawal.

D. The granting of easements and/or rights of ways provided for herein shall become effective upon the recording with the Bureau of Conveyances of the State of Hawaii of an amendment to the Declaration as provided for in sub-paragraph A of such paragraph 15.

Each and every party acquiring an interest in the property, by such acquisition, consents to such withdrawals from the common elements and/or the granting of easements and/or rights of ways as provided in such paragraph 15 and to the amendment or amendments

of the Declaration and the recording thereof in the Bureau of Conveyances of the State of Hawaii to effect the same; agrees to execute such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Developer his attorney-in-fact to execute such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties.


NOTE: "The possible withdrawal areas" herein designated are part of the common elements of the project. Purchasers and prospective purchasers should be cognizant of the fact that the administrative expense of the condominium project includes the "areas of possible withdrawal".

STATUS OF THE PROJECT: The Developer advises that construction of the project will commence on about July 1, 1979, and completion is scheduled for about September 1, 1980.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the Notice of Intention submitted on February 11, 1979, and information subsequently filed as of April 26, 1979.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 1093 filed with the Commission on February 11, 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.



AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

DISTRIBUTION:

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

Registration No. 1093

April 27, 1979

EXHIBIT "A"

<u>APT. NO.</u>	<u>PARKING STALL</u>	<u>APT. NO.</u>	<u>PARKING STALL</u>
101	3	301	5
102	4	302	6
103	84	303	82
104	83	304	81
105	80	305	74
106	75	306	73
107	66	307	68
108	67	308	69
109	59	309	57
110	60	310	58
111	50	311	52
112	47	312	51
113	44	313	45
114	41	314	40
201	7	401	1
202	8	402	2
203	76	403	86
204	77	404	85
205	72	405	78
206	71	406	79
207	70	407	64
208	63	408	65
209	55	409	61
210	56	410	62
211	54	411	48
212	53	412	49
213	46	413	43
214	39	414	42

EXHIBIT "B"

