

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
KAUAI BEACH VILLAS
(formerly called "Hanamaulu Beach Villas")
Hanamaulu, Kauai, Hawaii
with access from Kuhio Highway

REGISTRATION NO. 1280

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 26, 1981

Expires: November 26, 1982

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 MARCH 27, 1980 AND INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 22, 1981. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, AND SUBMITTING INFORMATION AND DATA REGARDING MATERIAL CHANGES IN THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report on April 11, 1980 and Supplementary Public Report on August 28, 1980, on HANAMAULU BEACH VILLAS, Registration No. 1280, the Developer reports that certain material changes have been made in the registration of the project. The name of the Project

has been changed to "KAUAI BEACH VILLAS." This Final Public Report (white paper stock) amends the Preliminary Public Report (yellow paper stock), and the Supplementary Public Report (pink paper stock), for Hanamaulu Beach Villas, becoming a part of the KAUAI BEACH VILLAS registration.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the issuance of this Final Public Report.
3. Advertising and promotional materials have been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The Developer advises that the Declaration of Horizontal Property Regime and attached Bylaws dated June 5, 1981, have been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15596, Page 1. The Condominium Map has been filed in said Bureau as Condominium Map No. 811. A First Amendment of Declaration of Horizontal Property Regime dated September 24, 1981 has been filed in said Bureau in Liber 15842, Page 418.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to horizontal property regimes.
6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, October 26, 1981, unless a Supplementary Public Report issues, or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Final Public Report is made a part of the registration on the Kauai Beach Villas condominium project. The Developer is responsible for placing a true copy of this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers along with a copy of the Supplementary Public Report (pink paper stock) and revised Disclosure Abstract. Inasmuch as the Preliminary Public Report is superseded in its entirety by the Supplementary Public Report of August 28, 1980, the Developer will provide a copy of the Preliminary Public Report to any purchaser upon written request. Securing a signed copy of the receipt therefor from each purchaser and prospective purchaser is also the responsibility of the Developer.

The information in the Supplementary Public Report of August 28, 1980, under the topical headings: TAX MAP KEY, DEVELOPER, DESCRIPTION, COMMON ELEMENTS, INTEREST TO BE CONVEYED TO PURCHASER, EASEMENTS, USE, OWNERSHIP TO TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, HANAMAULU BEACH RESORT ASSOCIATION, MANAGEMENT OF THE PROJECT, and STATUS OF THE PROJECT, has changed to the extent noted in this Final Public Report. The Developer reports that the

other information in the Supplementary Public Report has not changed except as otherwise stated in this Final Public Report. The changes are as follows:

TAX MAP KEY: Fourth Division 3-7-03:14.

DEVELOPER: The address of the Developer as well as the General Partner of the Developer, Hasegawa Komuten (USA), Inc., has been changed to Suite 820, Hasegawa Komuten Building, 820 Mililani Street, Honolulu, Hawaii 96813. Phone Number 536-3771.

DESCRIPTION: The Declaration has been amended to delete references to a sauna, to change the references to "jacuzzi" to "whirlpool spa," and to provide for two administrative apartments as described below. A new building has been added to the Plans which will also be an administrative apartment and which is called the Maintenance/Housekeeping Building. The space in the Administration Building formerly designated for use as a tennis pro shop has been left undesignated. There are now no plans for a tennis pro shop.

Administrative Apartment Buildings: The Project shall include two (2) separate administrative buildings constructed principally of concrete, glass, wood, and gypsum board. The Administration Building will contain a single apartment to be known as Administrative Apartment I. The Maintenance/Housekeeping Building will contain a single apartment to be known as Administrative Apartment II.

Administrative Apartment I is located on the Mauka side of the Land adjacent to the Tennis Courts as shown on the Condominium Map. Administrative Apartment II is located on the Mauka side of the Land, north of the Administration Building.

Administrative Apartment I contains seven rooms including the manager's office, lobby/registration area, PBX room, storage area, men's and women's restrooms and a room for additional administrative space. Administrative Apartment I contains approximately 1040 square feet. Administrative Apartment II contains four rooms including the housekeeping room, maintenance room, men's and women's restrooms, and an outside golf cart port. Administrative Apartment II, including the golf cart port, contains approximately 1,006 square feet.

COMMON ELEMENTS: The Administration Building is no longer a common element but is an administrative apartment.

INTEREST TO BE CONVEYED TO PURCHASER: The common interest of the Type 2/2-4 apartments has been reduced to 0.8030% from 0.8035%. The common interest of each of the administrative apartments will be 0.0010%.

EASEMENTS: The Declaration has been amended to provide that the common elements of the Project shall at all times be subject to use by the operator of any limited partnership,

rental pool arrangement or hotel operation in which apartments in the Project participate, including all customary hotel services such as maid, bellman, laundry, linen and room services, the daily arrival, registration, accommodation and departure of guests at all hours and all other incidental activities thereto.

USE: The paragraph relating to the provisions of the House Rules which provided that the number of occupants per bedroom be limited has been deleted in its entirety.

The Pool Use Building may be used for any purposes permitted from time to time under applicable laws and governmental regulations, and the Board of Directors of the Association of Apartment Owners (the "Board") may apply for and obtain permits, variances or other governmental approvals deemed necessary or desirable by the Board for any use of the Pool Use Building deemed desirable by the Board. The Board may also make any interior or exterior alterations of the Pool Use Building deemed necessary for any permitted use of such Building and may assess the cost of such alterations as a common expense. The acceptance of a deed or conveyance or the entering into a lease or occupancy or the taking of a mortgage or other lien on an apartment shall automatically constitute a consent by all present and future apartment owners, tenants, occupants, and lienholders within the meaning of the Horizontal Property Act, to any such alteration and assessment.

Any common element storage facilities that may be located throughout the Project are intended for and restricted to such uses as the Board from time to time determines in its sole discretion consistent with applicable laws and governmental regulations.

The Board on behalf of the Association may but shall not be required to enter into leases, licenses or other agreements with a third party or parties, for such reasonable compensation as may be determined by the Board, which grant to such third party or parties, either exclusive or non-exclusive rights to use for such purposes, the common element storage facilities, the Pool Use Building or any part or parts thereof.

The administrative apartments shall be used only for administrative, office, commercial, hotel and condominium management and operation and maintenance purposes as permitted by applicable law.

The charges for common expenses shall be apportioned among the two Administrative Apartments and all the rest of the apartments in the following fair and equitable manner: The two Administrative Apartments and all other apartments shall be charged their proportionate share of all common expenses in proportion to their respective common interest with only the exceptions specifically hereinafter set forth; each of the two Administrative Apartments shall at all times have separate meters for electricity and water so that the cost and expense of such use may be charged and paid as a direct

expense; the cost of all premiums for insurance coverage of each of them shall be allocated by the insurer with the approval of the Board of Directors on an annual basis and the cost of all security services for each of them shall be allocated by the provider of the security services and approved by the Board of Directors so that the two Administrative Apartments shall be assessed a fair and equitable share of the insurance and security costs and in no event less than their pro rata share in accordance with their respective percentage interests.

The residential apartment buildings and the residential apartments shall only be (i) occupied and used as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, or (ii) leased or rented to transients, upon the term and conditions provided herein. The Association shall have the power to enact resolutions, rules and regulations, and have the power to amend and repeal the same from time to time, reasonably restricting and regulating the use of the common elements; provided, that any such resolutions, rules or regulations shall be consistent with the terms of this Declaration, the Covenants and By-Laws.

The owners of the respective apartments shall have the absolute right to sell, lease, rent or otherwise transfer such apartments subject to all provisions of the Horizontal Property Act, the Covenants, this Declaration and the By-Laws attached hereto; provided, however, that no apartment owner may sell, lease, or otherwise transfer less than the entire apartment, and provided, further, that apartment owners who do not join the Kauai Beach Villas Hotel Partnership shall not lease or rent their apartments for periods of less than thirty (30) days, and apartment owners who do join the Kauai Beach Villas Hotel Partnership will be subject to limitations on personal use of their units as contained in the Kauai Beach Villas Hotel Partnership Agreement.

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

OWNERSHIP TO TITLE: Since the issuance of the Supplementary Public Report, the Developer has filed with the Commission an updated title report from Title Guaranty of Hawaii, Incorporated dated September 16, 1981, reflecting a change in ownership.

By Warranty Deed dated September 5, 1980, recorded in Liber 15116, Page 53, a copy of which has been filed with the Commission, the Developer acquired fee ownership of the

property together with nonexclusive rights of way over certain other property for ingress from and egress to Kuhio Highway and for beach access and development rights to construct public restroom and beach facilities as required by the County of Kauai.

ENCUMBRANCES AGAINST TITLE: Said title report of September 16, 1981, reflects the encumbrances set forth below:

1. For any taxes that may be due and owing, reference is hereby made to the Office of the Tax Assessor of the District in which the Project is situated.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance.
4. Reservations contained in instruments dated February 23, 1977, as of August 15, 1976, recorded in Liber 12200 at Page 307, dated June 29, 1977, recorded in Liber 12300 at Page 260, and dated September 23, 1977, recorded in Liber 12697 at Page 19, to-wit:

"Reserving unto Seller, its successors and assigns:

(a) as appurtenant to the lands of the Seller, located in the District of Lihue, now owned and used or hereafter acquired and used by the Seller in its sugar plantation operations, the perpetual right and easement over and upon the granted premises to discharge, emit, or transmit surface water runoff, noise, smoke, soot, dust, lights, vapors, odors and other substances and phenomena of every description created by and resulting from the reasonable operations of the Seller in burning sugarcane and bagasse, milling, generating power, trucking, hauling and all other activities incidental to the operation of a sugarcane plantation; and the Purchaser, his heirs, executors, administrators and assigns, do hereby waive any and all claims under any law whatsoever against the Seller arising therefrom.

(b) Such easements and rights-of-way over, across, under and through the granted premises for sewer, drainage, utility access and other purposes as may be reasonably necessary, convenient and appurtenant to existing improvements and facilities located in Lihue and Seller's surrounding lands; provided, however, that any such easement and right-of-way shall not unreasonably interfere with any then existing or future utilization of Purchaser's parcel affected by such easement and right of way."

5. Declaration of Conditions dated June 5, 1980, recorded in Liber 14784 at Page 751.

6. Reservation in favor of Knickerbocker Life Insurance Company of Ohio of the right to dedicate to the County of Kauai, said 6-foot wide pedestrian easement, pursuant to requirements of the County of Kauai; as reserved in Correction Deed dated August 27, 1980, recorded in Liber 15035 at Page 52.

7. MORTGAGE in the amount of \$3,000,000, dated October 30, 1980, by and between GRAHAM BEACH PARTNERS, a Hawaii limited partnership, as Mortgagor, and PACIFIC STANDARD LIFE INSURANCE COMPANY, an Arizona corporation, as Mortgagee, recorded in Liber 15116, Page 64.

Said Mortgage was amended by instrument dated March 10, 1981 and recorded in Liber 15427, at Page 665.

8. MORTGAGE AND FINANCING STATEMENT in the amount of \$23,500,000, dated as of April 15, 1981, by and between GRAHAM BEACH PARTNERS, a duly registered Hawaii limited partnership, as Mortgagor, and HONOLULU FEDERAL SAVINGS AND LOAN ASSOCIATION, a Federal savings and loan association, as Mortgagee, recorded in Liber 15589, Page 81.

By SUBORDINATION AGREEMENT AND LOAN PAYMENT AGREEMENT dated May 28, 1981, recorded in Liber 15589, at Page 144, that certain Mortgage recorded in Liber 15116, at Page 64, as amended, was subordinated to the lien of said Mortgage and Financing Statement.

9. Declaration of Covenants and Restrictions dated May 4, 1981, recorded in Liber 15595, at Page 650.

10. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Horizontal Property Regime dated June 5, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15596 at Page 1, and the Bylaws attached thereto. (Project covered by Condominium Map No. 811.)

NOTE: Said above Declaration of Horizontal Property Regime was amended by instrument dated September 24, 1981 and recorded in Liber 15842, Page 418.

PURCHASE MONEY HANDLING: The following paragraphs under the section entitled "NOTE" under this topical heading in the Supplementary Public Report issued August 28, 1980 has been amended as follows:

Paragraph 3 is amended by the following:

The final subdivision map for the land has been approved by the County of Kauai Planning Department. Therefore, as provided in the Sales Contract, after the purchaser receives and reviews this final report,

executes the Receipt and delivers the Receipt to the Developer, the Sales Contract will become a binding sales contract (subject only to any applicable provisions of the Horizontal Property Act). The purchasers are advised to carefully read Section D.23 of the Sales Contract which sets forth certain rights of the Developer to cancel the Sales Contract and Section D.33 of the Sales Contract with respect to the provisions pertaining to purchaser's application for financing. The Developer, in consideration of the purchaser's execution and return of the Receipt, has agreed to waive its reserved right to cancel the Sales Contract if New Laws (as defined in D.23 of the Sales Contract) increase the costs of the Project and the Developer elects not to bear such increased costs, but the Developer reaffirms all other reserved rights in the Sales Contract, which shall in no way be affected by this limited waiver.

Paragraph 5 is deleted and the following is substituted therefor:

5. The Developer has filed with the Commission a specimen form of its Amendment to Reservation Agreement, Sales Contract and Receipt. This Amendment amends the Sales Contract to provide that the seller will pay to the purchaser simple interest at the rate of 5-1/2% per annum on the purchaser's deposits made pursuant to Section D.2 of the Sales Contract from the date payment A is paid by the purchaser pursuant to Section D.2 of the Sales Contract until the date the apartment is conveyed to the purchaser provided that the sale closes and the purchaser performs all of its obligations under the Sales Contract without any default. The seller will pay said interest to the purchaser within a reasonable time following the conveyance of the apartment. The interest actually earned on purchaser's deposits, as stated in Section D.4 of the Sales Contract shall belong to and shall be paid to seller.

Paragraphs 15 and 16 are deleted and the following is substituted therefor:

15. Purchasers are advised that the Committee to Save Nukolii (the "Committee") and others have filed three civil complaints (Civil Nos. 2260, 2268 and 2321) in the Fifth Circuit Court of the State of Hawaii in an attempt to prevent construction of the project. The first two complaints, Nos. 2260 and 2268, filed on May 9, 1980, attacked, on numerous grounds, the validity of the approval given by the Planning Commission of the County of Kauai to the Developer to proceed with the project. The Developer, together with the Office of the County Attorney of the County of Kauai, opposed Nos. 2260 and 2268. On July 7, 1980, the Court granted the Developer's motion for a dismissal of plaintiff's complaint in No. 2260. On July 29, 1980, the plaintiffs voluntarily withdrew their Complaint in No. 2268 by stipulating to a dismissal. On August 4, 1980,

Plaintiffs appealed No. 2260 to the Hawaii Supreme Court. The Complaint in No. 2321 was filed on August 27, 1980, and attacks the issuance by the State Department of Health of the permit for the sewage treatment plant for the project and the adjacent hotel to be constructed. The issues raised by the Committee in No. 2321 are very similar to those addressed by the Court in No. 2260. The case in No. 2321 is not actively being pursued by either the Committee or the Developer and will be disposed of once the Supreme Court rules on the appeal in No. 2260.

16. Purchasers are further advised that Article 7 of the Kauai County Charter grants to the voters of Kauai the power to reject the zoning ordinance passed by the Kauai County Council for the project and the adjacent hotel to be constructed. At the general election held on November 4, 1980, the voters of the County of Kauai adopted a proposal which has changed the zoning classification of the property from Resort/Residential (RR-20) to its previous agriculture district (A) zoning classification. However, Article 7 of the Kauai County Charter provides that a referendum which nullifies an existing ordinance shall not affect any vested rights or any action taken or expenditure made up to the date of the referendum.

On November 25, 1980, the County of Kauai filed in the Fifth Circuit Court of the State of Hawaii a civil action (Civil No. 2388) for a declaratory judgment on whether the Developer had acquired, prior to the referendum, vested rights to complete the project. On February 9, 1981, the Fifth Circuit Court held that: (1) the agencies of the County of Kauai had properly and legally issued the building and other permits for the project, (2) the Developer, having incurred substantial expenditures in reliance upon the existing Resort/Residential (RR-22) zoning had acquired vested rights to continue and complete, and (3) the County of Kauai is equitably estopped from prohibiting the continuation and completion of the project.

The Committee has appealed the trial court's decision to the Hawaii Supreme Court. The appeal is proceeding in the normal course. A decision is not expected from the Supreme Court for at least one to two years. Construction of the project is continuing despite the appeal.

HANAMAULU BEACH RESORT ASSOCIATION: Except as noted in this paragraph, the information contained in the Section entitled "HANAMAULU BEACH RESORT ASSOCIATION" of the Supplementary Public Report is accurate.

In addition to access roads, lagoons, public parking and other facilities, a public bathhouse will be constructed by the Developer to be owned and maintained by the Association at the beach fronting lands contiguous to the Project. All

purchasers shall automatically become members of the Hanamaulu Beach Resort Association, a Hawaii non-profit corporation. The Declaration of Covenants and Restrictions, which establishes the Hanamaulu Beach Resort Association, requires that the Resort Association accept, assume and discharge, upon assignment and transfer from the developer, sole responsibility for the maintenance of a drainage canal which is located on the mauka boundary of the project and adjoining lots intended to be included within the Resort Association. This drainage canal is located on land owned by Lihue Plantation Company, Ltd. The Association shall have the duties and powers, including the power to levy and collect assessments from each apartment owner, and other owners within the Resort Association, to accept and maintain the drainage canal as though said drainage canal were part of the common property of the Association. The information provided in the Supplementary Public Report with respect to the Resort Association is still accurate with the addition of the foregoing.

The Declaration of Covenants and Restrictions has been amended to clarify the method of computation of assessments of the Hanamaulu Beach Resort Association, to make it clear that assessments will be in proportion to "Class A" Voting Rights only.

ADDITIONAL NOTE: The Developer has reserved the right to grant (or to have granted) at any time to the County of Kauai a six-foot pedestrian easement paralleling the shoreline along the makai boundary of the project and to grant other easements or dedicate other property in favor of the County of Kauai all as required by Ordinance No. PM-26-79.

MANAGEMENT OF THE PROJECT: The Developer has executed a contract with Hotel Corporation of the Pacific, Inc. to be the initial managing agent for the project.

NOTE: The Developer is seeking registration with the Securities and Exchange Commission of an arrangement to operate the Project as a condominium hotel with the intention that owners of residential apartments may join and become limited partners in Kauai Beach Villas Hotel Partnership, a Hawaii limited partnership or any successor thereto (the "Partnership"). A Hotel Management Contract will be executed by the Partnership and a hotel operator to provide for the operation of those residential apartments committed to the Partnership in a commercial hotel operation. A minimum of 50 purchasers must join the Hotel Partnership to enable the hotel to be operated. If fewer than 50 purchasers join the Hotel Partnership, the Hotel Partnership will be dissolved and all cash contributions to it made by Purchasers will be returned. It is the present intention of the Developer to transfer title to the two Administrative Apartments to Haseko Resorts, Inc. which is a wholly owned subsidiary of Hasegawa Komuten (U.S.A.), Inc. and general partner of the Kauai Beach Villas Hotel Partnership, or any other entity, to facilitate hotel management.

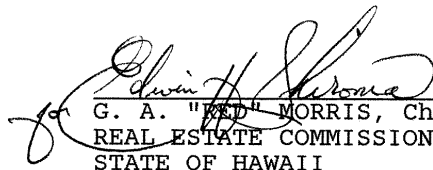
STATUS OF PROJECT: On September 10, 1980, the Developer entered into a construction contract with Hawaiian Dredging & Construction Company, a division of Dillingham Corp., to construct the project. The Developer advises that construction has commenced and that it is estimated that construction will be completed on or about November 30, 1981.

Purchasers are hereby advised that the Project has been, or may be registered for sale in the states of Washington, Oregon, and Colorado, in the Canadian Provinces of British Columbia and Alberta, and with the Federal Securities and Exchange Commission. Because of the registration requirements of certain states and provinces, changes were made to the escrow agreement, Fee Simple Condominium Reservation Agreement Sales Contract and Receipt, and Reservation Agreement--Sales Contract and Receipt after the issuance of the Preliminary Public Report and prior to the issuance of this Final Public Report. Copies of these documents are available for inspection at the offices of the Developer.

The purchaser or 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 March 27, 1980, and information subsequently filed as of October 22, 1981.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1280 filed with the Commission on March 27, 1980.

This report, when reproduced, shall be a true copy of the Commission's public report. The paper stock used in making facsimiles must be white.


G. A. "RED" MORRIS, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

Registration No. 1280
October 26, 1981