

# 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

MAUI LU GARDENS  
Kihei, Maui, Hawaii

REGISTRATION NO. 235

### 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 7, 1969

Expires: March 7, 1970

#### 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED NOVEMBER 4, 1968 AND INFORMATION SUBSEQUENTLY FILED AS LATE AS JANUARY 6, 1969. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT AND AMENDMENTS THERETO BY ACT 244 (L. 1967) EFFECTIVE JUNE 6, 1967.

1. MAUI LU GARDENS is a proposed leasehold condominium project consisting of fifty-six (56) dwelling units arranged throughout a single building of four (4) stories. The common elements include a parking area with fifty-six (56) parking stalls, laundry room and sewage disposal units.
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.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.

4. No advertising or promotional matter has been submitted pursuant to rules and regulations promulgated by the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 170A, Revised Laws of Hawaii 1955 (as amended, particularly ACT 244, L. 1967, effective June 6, 1967) and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance February 7, 1969, unless a Supplementary Public Report issues or the Commission, upon review of registration, issues an order extending the effective period of this report.

NAME OF PROJECT: MAUI LU GARDENS

LOCATION: The approximate 1.374 acres of fee simple land to be committed to the regime is situated on the westerly side of Kenolio Road at Kaonoulu, Kihei, Island of Maui, State of Hawaii.

TAX KEY: SECOND DIVISION 3-9-01-por. 86

ZONING: Hotel (H-2)

DEVELOPER: M-T DEVELOPMENT COMPANY, INC., Papa Avenue, Kahului Maui, Hawaii. Telephone 76-341. A Hawaii corporation registered with the Department of Regulatory Agencies, State of Hawaii, on September 10, 1968. The officers are:

Max M. Maude	President	Kahului, Maui, Hawaii
Robert L. Taggesell	Vice President	Kahului, Maui, Hawaii
Shirley T. Suzuki	Secretary-Treasurer	Kahului, Maui, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Crockett & Crockett (Attention: Mr. William F. Crockett), 33 South Market Street, Wailuku, Maui, Hawaii. Telephone 33-796.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the project is to consist of fifty-six (56) leasehold apartments, separately designated and legally described, arranged throughout the four (4) story building situate upon the 1.374 acres of land hereinbefore described. Each apartment shall consist of the space or area contained in the perimeter walls of each apartment unit in this multi-family structure, together with an undivided interest in the common elements appertaining thereto.

The principal materials of which the said building shall be constructed are as follows: the footings and floor slabs shall be of reinforced concrete; the exterior wall shall be of concrete and hollow tile; the ceilings shall be of concrete; the concrete floor slabs will be covered with vinyl asbestos; the interior walls will be of concrete, hollow tile and mahogany veneer board; the roof will be of concrete.

There are fourteen (14) apartments located on each of the four stories of the said building. Apartments 101 through 114 are located on the first story; apartments 201 through 214 are located on the second story; apartments 301 through 314 are located on the third story; apartments 401 through 414 are located on the fourth story.

The apartments are of two types: one-bedroom apartments, and two-bedroom apartments. Apartments 101, 201, 301, 401, 114, 214, 314 and 414 are two-bedroom apartments; the rest of the apartments are one-bedroom apartments.

Each one-bedroom apartment shall consist of a living room, kitchen, bathroom, entry hall, a bedroom and an open balcony, and each shall have an approximate enclosed floor space of 616 square feet of living area and 154 square feet of

open balcony. Each two-bedroom apartment shall consist of a living room, kitchen, bathroom, entry hall, two bedrooms and an open balcony, and each shall have an approximate enclosed floor space of 798 square feet of living area and 154 square feet of open balcony.

Apartments 101 through 114 shall each have immediate access to the land heretofore described. The remaining apartments shall each have immediate access to the covered walkway connecting the apartments on each story, the elevator, and stairways.

COMMON ELEMENTS: The proposed Declaration reflects that the common elements include (a) the land heretofore described and the super-adjacent airspace above the roof, and next to the exterior walls, of the said buildings; (b) all foundations, columns, beams and supports, girders, roof, walkways, stairways, exterior walls, partition walls between each apartment, floors and ceilings, elevator and elevator shaft; (c) parking area and parking stalls, laundry room, sewage disposal units and outdoor lighting; (d) all central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, refrigeration, air conditioning, television, sewage disposal, and other utilities (including all pipes, ducts, wires, cables, and conduits used in connection therewith, whether located in common areas or in apartments), and all tanks, pumps, motors, fans, compressors, ducts and other apparatus and installations existing for common use; and (e) all other apparatus and installations existing in the said buildings or on the said land hereinbefore described existing for, or rationally of common use to, or necessary or convenient to the existence, maintenance or safety of all of the apartments of the horizontal property regime hereby established.

LIMITED COMMON ELEMENTS: None

INTEREST TO BE CONVEYED PURCHASER: The proposed Declaration reflects that the percentage of undivided interest in the common elements appertaining to each apartment shall be one fifty-sixth (1/56). The undivided interests established and to be conveyed with the respective "apartments" cannot be changed, and the Developer/Owner covenants and agrees that the undivided interests in the "common areas and facilities" and the leasehold titles to the respective "apartments" to be conveyed, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective "apartment" even though the description in the instrument of conveyance or encumbrance may refer only to the leasehold title to the "apartment."

The proportionate shares of the separate owners of the respective "apartments" in the profits and common expenses in the "common areas and facilities" as well as their proportionate representation for voting purposes in the Association of Apartment Owners shall be 1/56th undivided interest.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the "apartments" shall be used as residential apartments in accordance with the terms of the proposed Declaration of Horizontal Property Regime, the proposed Declaration of Covenants, Conditions and Restrictions and By-Laws of Association of Apartment Owners of Maui Lu Gardens, the House Rules as they shall exist or as they may be amended from time to time.

OWNERSHIP OF TITLE: A Certificate of Title dated September 12, 1968 prepared by Security Title Corporation, certifies the Spuraway Holdings, Ltd., a Canadian corporation, has title to the land committed to the project.

The Developer, M-T Development Company, Inc., has submitted to the Commission a copy of their Development Agreement entered upon with Spuraway Holdings, Ltd., the Owner in Fee. The Development Agreement, dated September 3, 1968, calls for Developer to construct a fifty-six (56) unit apartment building upon the said property, and Owner of Fee agrees to submit the said property, including the said building to a horizontal property regime. The Development Agreement further provides for the sale of such apartments by the Developer, and the issuance of appropriate apartment leases by Owner of Fee to the purchaser of each apartment. The specimen Apartment Lease indicates a term of fifty-five (55) years.

ENCUMBRANCES AGAINST TITLE: The Certificate of Title, prepared by Security Title Corporation, certifies that there are no liens or encumbrances of whatever kind or nature of record against said title, save and except the following: Taxes that may be due and owing and a lien on the land under search, reference is hereby made to the Office of the Tax Assessor of the Second Division; Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent No. 7447.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated October 21, 1968, identifies Security Title Corporation, a Hawaii corporation, as the Escrow Agent. On examination the specimen Contract Sale and the executed Escrow Agreement are found to be in compliance with Chapter 170A, Revised Laws of Hawaii, and particularly Sec. 170A-33., and Sec. 170A-33.1 through 170A-33.5 as incorporated in the Horizontal Property Act through ACT 244 (L. 1967) effective June 6, 1967.

Among other provisions the executed Escrow Agreement states that a purchaser under contract of sale, upon written request, shall be entitled to a refund of all monies deposited with Escrow, without interest, and less a cancellation fee, if any of the following events shall have occurred: (1) There is a change in the plans for the said building requiring the approval of the official of the County of Maui having jurisdiction over the issuance of permits for the construction of buildings, unless the developer obtains the purchaser's written approval or acceptance of such specific change in building plans; (2) The Final Public Report upon the project differs from the Preliminary Public Report upon the project issued by the Real Estate Commission of the State of Hawaii in any material respect; and (3) Such Final Public Report is not issued within one year from the date of issuance of such Preliminary Public Report.

The specimen Contract of Sale states that the terms of the Escrow Agreement are made a part of the Contract of Sale by reference. It is incumbent upon the purchaser and prospective purchaser that he reads with care the Contract of Sale and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the dwelling units and all sums received from any source are placed in trust, as well as the retention and disbursement of said trust funds.

MANAGEMENT AND OPERATIONS: The By-Laws empower the Board of Directors with the authority to acquire and pay for the services of a person or firm to manage the Horizontal Property Regime. No property manager has been identified in the notice of intention to sell.

STATUS OF PROJECT: No building contract has been executed. According to the specimen Reservation Agreement, seller shall have the absolute right to cancel the Reservation Agreement if it fails to sell more than forty-four (44) apartments within one (1) year after obtaining preliminary approval of the project from the Commission.

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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 November 4, 1968, and information subsequently filed as late as January 6, 1969.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 235 filed with the Commission on November 4, 1968.

The report when reproduced shall be a true copy of the Commission's public report. The paper stock must be yellow in color.

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Distribution:

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BUREAU OF CONVEYANCES  
PLANNING COMMISSION, COUNTY OF MAUI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

  
JACK K. PALK, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

February 7, 1969  
Registration No. 235