

REAL ESTATE COMMISSION
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES
STATE OF HAWAII
1010 HICHAKUS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

FINAL
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT

on
MALIA KAI
Alii Drive
Kailua-Kona, Hawaii

REGISTRATION NO. 281

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: September 13, 1971
Expires: October 13, 1972

SPECIAL ATTENTION

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

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED MAY 12, 1969 AND ADDITIONAL INFORMATION SUBSEQUENTLY SUBMITTED BY THE DEVELOPER AS OF JULY 17, 1969, AS OF OCTOBER 20, 1970, AS OF AUGUST 3, 1971, AND AS OF SEPTEMBER 10, 1971. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON MATERIAL CHANGES IN THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW (CHAPTER 514, HAWAII REVISED STATUTES).

1. Since the issuance of the Commission's Preliminary Public Report of July 18, 1969 on MALIA KAI, the project was changed from a leasehold to a fee simple condominium project and the effective period of the report was extended to November 21, 1971 by the issuance of Supplementary Horizontal Property Regimes Public Report on October 21, 1970. This Final Public Report supersedes and replaces in total the Preliminary Public Report (yellow paper stock) of July 18, 1969 and the Supplementary Public Report (pink paper stock) of October 21, 1970.

2. MALIA KAI is a proposed fee simple residential town house type condominium having twenty (20) separate structural units arranged in a general U-shaped pattern, joined in almost all cases by common walls. Individual parking stalls are available for each of the 20 residential units.
3. Advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
5. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.
6. The basic documents (Declaration of Horizontal Property Regime and the By-Laws and copy of the approved Floor Plans) have been recorded in the Bureau of Conveyances. The Declaration of Horizontal Property Regime executed May 17, 1971, together with the By-Laws of the Association of Apartment Owners, were recorded in the Bureau of Conveyances in Liber 7579, at Page 434, and the Bureau of Conveyances has designated Condominium File Plan No. 192 to the Malia Kai Project on June 2, 1971.
7. This Final Public Report is made a part of the registration on the MALIA KAI Condominium Project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers receiving the Preliminary Public Report (yellow paper stock) and the Supplemental Public Report (pink paper stock). Securing a signed copy of the Receipt for this Final Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.
8. This Final Public Report automatically expires thirteen (13) months after the date of issuance, September 13, 1971, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: MALIA KAI

LOCATION: The project is located on the mauka side of Alii Drive, at Kailua-Kona, on the Island of Hawaii, and is situated on a lot with a view of the ocean, containing approximately 28,628 square feet or thereabouts.

TAX KEY: THIRD DIVISION 7-5-09-9

ZONING: Apartment

DEVELOPER: The amended Notice of Intention reveals the Developer to be a registered limited partnership known as HERC Development. It further reveals the general partner to be William Clifford Harr, whose address is 888 Kendall Building, 888 Mililani Street, Honolulu, Hawaii.

ATTORNEY REPRESENTING DEVELOPER: Ted T. Tsukiyama, 887 Kendall Building, 888 Mililani Street, Honolulu, Hawaii 96813, telephone 531-5032.

DESCRIPTION OF PROJECT: The Declaration of Horizontal Property Regime reflects that this is a fee simple residential cluster condominium apartment complex consisting of twenty (20) separate apartment units designated or numbered respectively from 1 to 20. Each apartment unit is a separate structure joined in almost all cases by common walls, and situated around a central courtyard area including the swimming pool, walkways and landscaping. All apartment units are identical in size, floor plan, elevation and in all other respects except as to location, thus the description of one apartment will describe every other apartment except as to location and view.

Each apartment is a separate unit of the town house type with three floors or levels. Each unit will have access to the outside perimeter driveway and the central courtyard and swimming pool.

The ground floor will house a one-car garage plus storage and laundry area which includes a washer-dryer and water heater. The second floor contains a kitchen, living and dining area with half bath. Appliances furnished with each unit are the electric range with exhaust fan, hood and oven, dishwasher and refrigerator. The third floor contains two bedrooms separated by a sliding shoji screen, and a full bath plus dressing rooms. The living room and bedrooms and stairways will be carpeted wall-to-wall. Floor covering in the kitchen and bathrooms will be of vinyl asbestos tile. Drapes will be furnished on the second and third floors and sliding glass doors will open out to lanais.

Each apartment unit will be constructed on concrete foundations with concrete first floor slabs. The common walls will be masonry, the interiors are stud walls with gypsum board, and the exterior walls will be of wood frame with wood siding. The ground floor exterior walls will be lava rock over masonry and the roofs will be of shingle composition.

Each of the three floors in each unit shall contain 400 square feet plus a second floor lanai of 76 square feet and a third floor lanai of 35 square feet, for an aggregate area of 1,311 square feet per unit.

COMMON ELEMENTS: The Declaration states that within the condominium project, the apartment owners of each unit will have the use of certain common elements which will include: (a) use in common with other owners of the project land; (b) the perimeter driveway; (c) all walkways within the project; (d) the central courtyard; (e) all grounds and landscaping; (f) swimming pool; (g) roofs and finished exterior wall surfaces of each unit; (h) pipe, conduits, wiring and other utility installation and sewage treatment units outside of each unit; and (i) all other devices or installations upon the land existing for or rationally of common use to all the owners of units within the project or necessary for the upkeep and safety of the project.

PERCENTAGE OF UNDIVIDED INTEREST: The Declaration reflects that the percentage of undivided interest in all the common elements of whatever kind appertaining to each apartment unit and its owner for all purposes shall be five percent (5%) for each of the twenty (20) apartment units.

PURPOSE OF BUILDING AND RESTRICTION OF USE: The Declaration reflects that each apartment unit will be used as a temporary or permanent single family residence or as a hotel and for no other purpose.

OWNERSHIP OF TITLE: The Developer has submitted a preliminary title report issued by Title Guaranty of Hawaii, Inc. dated September 7, 1971 showing that fee simple title to the property is vested in William Clifford Harr, General Partner for and on behalf of HERC Development, a registered Limited Partnership.

ENCUMBRANCES AGAINST PROPERTY: The subject property is subject to the following encumbrances:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent Grant 4100.
2. That certain Mortgage and Financing Statement dated June 2, 1971 from William Clifford Harr, General Partner of HERC Development, a limited partnership, as Mortgagor, to American Savings and Loan Association, as Mortgagee, and recorded in the Bureau of Conveyances in Liber 7581, at Page 410.
3. The Declaration of Horizontal Property Regime dated May 17, 1971 and recorded in Liber 7579, at Page 434, and the By-Laws attached thereto as the same are or may be amended in accordance with law, said Declaration or said By-Laws, filed as Condominium Map No. 192.

4. For any taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the District in which the land is situated.

PURCHASE MONEY HANDLING: A copy of the specimen Sales Contract and the executed Escrow Agreement have been submitted as part of the registration. The executed Escrow Agreement made October 1, 1970 is executed by and identifies Title Guaranty Escrow Services, Inc. as the "escrow" in the Malia Kai condominium project. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes.

Among other provisions, the executed Escrow Agreement provides the following which relates to refund of purchasers' moneys:

1. If at any time subsequent to the execution of the Sales Contract by a purchaser or the purchaser has deposited funds prior to the issuance of the Final Public Report, there is any change in the condominium building plans requiring the approval of a county officer having jurisdiction over the issuance of building permits for the construction of buildings, and the purchaser has not given his written approval or acceptance of such changes, the purchaser may request in writing for a refund of his money and the escrow would be required to make such refund to the purchaser.
2. In the event that the Final Public Report is not issued within one (1) year from the date of issuance of the Preliminary Public Report, the purchasers shall be entitled to a refund of all moneys each has paid into escrow.
3. If the Final Public Report differs in any material respect from the Supplementary Preliminary Report, and the purchaser has not given his written approval or acceptance of the difference, the purchaser may request a refund of his money.

It is incumbent upon the purchaser and prospective purchaser that he carefully reads the Sales Contract and the executed Escrow Agreement, the Escrow Agreement establishes how the proceeds from the sale of the apartment 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 Declaration and By-Laws of the Association of Apartment Owners state that the Board of Directors of the Association of Apartment Owners shall have the power to appoint and employ a managing agent to manage and control the condominium apartments and project, in accordance with the provisions of said By-Laws.

CONSTRUCTION CONTRACT: The contractor is Harvis Construction, Inc. who has posted a performance and payment bond equal to one hundred percent (100%) of the cost of construction.

FINANCING OF PROJECT: The Developer has filed with the Commission a statement showing the estimated total project costs, which costs will be met and paid by proceeds from the sales of units.

The payment program by each purchaser of an apartment is as follows: Each purchaser will pay 25% of the purchase price of the apartment unit in cash and may finance up to \$35,600 through an apartment loan with American Savings & Loan Association, repayable on a 25-year term at a currently quoted rate of interest of 10%. Full terms of such take-out financing for the Malia Kai condominium project purchasers are set forth in a commitment letter dated July 20, 1970 issued by American Savings & Loan Association which has been placed on file with the Commission.

Down payment moneys and proceeds from the individual mortgage loans will be placed in Escrow with Title Guaranty Escrow Services, Inc. and will be released

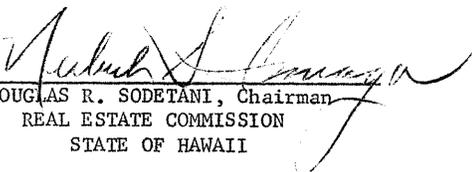
from Escrow for payment of project expenditures only upon consent of the mortgagee, after eighteen (18) of the twenty (20) units in the project have been sold. The Escrow Agreement with Title Guaranty Escrow Services, Inc. sets forth all of the terms, conditions and limitations governing the expenditure of funds from Escrow to pay for costs of said project, and is in compliance with the requirements of Section 514-15 (6) of the Hawaii Revised Statutes.

STATUS OF PROJECT: Eighteen (18) of the twenty (20) units have been sold to qualified buyers and the interim construction loan has been funded by American Savings and Loan Association secured by said Mortgage and Financing Statement dated June 2, 1971, and construction of the project has commenced on June 29, 1971, with the construction contract requiring completion within twelve (12) months thereafter.

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 May 12, 1969, together with supplemental data and documents submitted as part of this registration up to and including the 17th day of July, 1969, October 20, 1970, August 3, 1971 and September 10, 1971.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 281 filed with the Commission on May 12, 1969.

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


for DOUGLAS R. SODEVANI, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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Distribution:

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

September 13, 1971
Registration No. 281

