

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

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

SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
MALIA KAI
Alii Drive
Kailua-Kona, Hawaii

REGISTRATION NO. 281

This Report Is Not an Approval or Disapproval of This Condominium Project

It was prepared as a supplement to an earlier Report dated _____ issued by the Real Estate Commission on the above 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 21, 1970

Expires: November 21, 1971

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 SUPPLEMENTARY 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 AND AS OF OCTOBER 20, 1970. 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, Registration No. 326, which effective period was extended to November 17, 1970, the Developer reports that changes have been made in the plan or setup as presented in the May 12, 1969 notice of intention to sell and information subsequently filed on July 17, 1969.

The changes subsequently made after July 18, 1969 are determined to be a material revision to the information disclosed earlier. This Supplementary Public Report (pink paper stock) amends the Preliminary Public Report (yellow paper stock) of July 18, 1969.

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. 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 Supplementary Preliminary Public Report.
6. The basic documents (the Declaration of Horizontal Property Regime and the covenants, restrictions and By-Laws and a copy of the approved Floor Plans) have not been filed in the office of the recording officer. The Developer reports that the basic documents will be filed in the Bureau of Conveyances, State of Hawaii, after the mortgage securing the construction loan is recorded.
7. This Supplementary Preliminary Public Report is made a part of the registration on Malia Kai condominium project. The Developer has the responsibility of placing a true copy of this Supplementary Preliminary Public Report (pink paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the Receipt for the Final Horizontal Property Regime Public Report from each purchaser and prospective purchaser when it is issued is also the responsibility of the Developer.
8. This Supplementary Preliminary Public Report automatically expires on November 21, 1971, unless a second supplementary report is published 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 specimen 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 are 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 every 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 specimen 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 specimen Declaration reflects that the percentage of undivided interest in all the common elements of whatever kind appertaining to each apartment unit and its owners for all purposes shall be five percent (5%) for each of the twenty (20) apartment units.

PURPOSE OF BUILDING AND RESTRICTION OF USE: The specimen 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 30, 1970 showing that fee simple title to the property is vested in Sylvia Maile Morioka, wife of Edward F. Morioka, subject to an Agreement of Sale dated February 17, 1967 to Gordon H. Damon and Harry K. Meyer, recorded in the Bureau of Conveyances in Liber 5602, at Page 465. Said Agreement of Sale was assigned to William Clifford Harr, General Partner of HERC Development, a limited partnership, by Assignment of Agreement of Sale dated June 19, 1970 from Gordon H. Damon and Harry K. Meyer and recorded in the Bureau of Conveyances in Liber 7145, at Page 133. The Developer will receive fee simple title from the owner contemporaneously with the recording of the mortgage securing the interim construction loan when the balance of the Agreement of Sale will be paid off from the loan proceeds.

ENCUMBRANCES AGAINST PROPERTY: The preliminary title report issued by Title Guaranty of Hawaii, Inc. further indicates that 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. The Agreement of Sale dated February 17, 1967 from Sylvia Maile Morioka to Gordon H. Damon and Harry K. Meyer as above indicated.
3. Assignment of said Agreement of Sale dated February 17, 1967 to William Clifford Harr, General Partner of HERC Development, a limited partnership, by Assignment dated June 19, 1970 and

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 Public 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 specimen 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 property, in accordance with the provisions of said By-Laws.

CONSTRUCTION CONTRACT: The contractor shall be Harvis Construction, Inc. who will be required to post 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: Interim and take-out financing commitments have been secured from American Savings & Loan Association and construction will commence when eighteen (18) of the twenty (20) units are sold to qualified buyers. The Escrow Agreement specifies that in the event construction of the project does not commence by the 31st day of December, 1970, and the parties have not agreed to extend the same, all moneys received by escrow from purchasers will be refunded to the purchasers.

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 and October 20, 1970.

This SUPPLEMENTARY PRELIMINARY 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 pink.


HERBERT S. ISONAGA, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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Distribution:

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ESCROW AGENT

October 21, 1970
Registration No. 281

