

# 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  
KAHANA SUNSET  
Honoapiilani Highway  
Mailepai, Maui, Hawaii

REGISTRATION NO. 410

### 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: September 29, 1971  
Expires: October 29, 1972

#### SPECIAL ATTENTION

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

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED SEPTEMBER 1, 1971 AND INFORMATION SUBSEQUENTLY FILED AS LATE AS SEPTEMBER 27, 1971. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT AND AMENDMENTS THERETO (CHAPTER 514, HAWAII REVISED STATUTES).

1. KAHANA SUNSET is a proposed leasehold condominium project consisting of seventy-nine (79) residential apartments and two (2) commercial units located within eight (8) buildings. One hundred three (103) parking stalls are available.
2. The Developer of the project has filed all documents and information deemed necessary by the Commission for registration of this proposed 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 been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime, executed July 10, 1971, was filed in the Bureau of Conveyances of the State of Hawaii in Liber 7675, page 145.

The Bureau of Conveyances has designated Condominium File Plan No. 194 to the KAHANA SUNSET project.

4. Advertising and promotional matter will be submitted to the Commission 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 514, Hawaii Revised Statutes, as amended, and the rules and regulations promulgated thereunder which relate to Horizontal Property Regime.
6. This Preliminary Public Report is made a part of the registration of the Kahana Sunset condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers.
7. If the Final Public Report is not issued within one (1) year from the date of this Preliminary Public Report, September 29, 1971, purchasers and prospective purchasers shall be entitled to a refund of all monies without further obligation.

NAME OF PROJECT: KAHANA SUNSET

LOCATION: The approximate 4.467 acres of leasehold land committed to the regime is situated on Honoapiilani Highway, Mailepai, Island and County of Maui, State of Hawaii.

TAX MAP KEY: Second Division 4-3-3: 15, 51

ZONING: Apartment

DEVELOPER: McGowan-Mahoe Development Company, a Hawaii limited partnership, 770 Kapiolani Boulevard, Honolulu, Hawaii, registered with the Department of Regulatory Agencies, State of Hawaii, on July 22, 1970. The partners are:

General Partners

<u>Name</u>	<u>Address</u>
Dale W. McGowan	Napili, Lahaina Maui, Hawaii
Cummins K. Mahoe, Jr.	969 Front Street Lahaina, Maui, Hawaii
Shimac Yamauchi	1177 Hale Paka Place Lahaina, Maui, Hawaii
Michael Shiraishi	770 Kapiolani Boulevard Honolulu, Hawaii
Michael Suzuki	770 Kapiolani Boulevard Honolulu, Hawaii

Limited Partners

<u>Name</u>	<u>Address</u>
Dale W. McGowan	Napili, Lahaina Maui, Hawaii
Cummins K. Mahoe, Jr.	969 Front Street Lahaina, Maui, Hawaii
Shimae Yamauchi	1177 Hale Paka Place Lahaina, Maui, Hawaii
Michael Shiraishi	770 Kapiolani Boulevard Honolulu, Hawaii
Michael Suzuki	770 Kapiolani Boulevard Honolulu, Hawaii
Hawaiian Finance and Investment Company, Ltd.	770 Kapiolani Boulevard Honolulu, Hawaii
Property Developers, Inc.	770 Kapiolani Boulevard Honolulu, Hawaii

ATTORNEYS REPRESENTING DEVELOPER: Kobayashi, Toyofuku & Koshiba (Attention: Mr. Kenneth Y. Sugita), Suite 814, Hawaii Building, 745 Fort Street, Honolulu, Hawaii. Telephone 537-5361.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime indicates that the Kahana Sunset condominium project is comprised of seventy-nine (79) residential apartments and two (2) commercial units located within eight (8) buildings, without basements, constructed principally of wood. Each building contains the number of floors and apartments listed below:

	<u>No. of Floors</u>	<u>No. of Apartments</u>
Building A	2	10
Building B	3	16
Building C	3	11
Building D	3	14
Building E	3	16
Building F	2	12
Building G	1	1 (Commercial)
Cabana	1	1 (Commercial)

Eighty-one (81) apartments, seventy-nine (79) residential and two (2) commercial, are designated in the spaces within the perimeter walls, floors and ceilings of each of the eighty-one (81) apartment units of the project, which spaces are designated on the plans for the project and described as follows:

- (a) Building A contains ten (10) two-story apartments, numbered A-1 to A-10, inclusive. Each contains 2 bedrooms, 2 1/2 bathrooms, a living-dining room, kitchen, and two (2) lanais. Each contains a total floor area of approximately 1,414 square feet, including 308 square feet of lanais, and each has a common interest of 1.30 per cent.

In Building B, Apartments B-1-B to B-5-B, inclusive, are located on the first floor; each contains 1 bedroom, 1 bathroom, a living-dining room, kitchen and one (1) lanai, with a total floor area of approximately 784 square feet, including 84 square feet of lanais, and each has a common interest of 0.98 per cent. Apartments B-1 to B-11, inclusive, are two-story apartments, occupying the second and third floors of Building B. Each contains 2 bedrooms, 2 bathrooms, a living-dining room, kitchen and two (2) lanais, with a total floor area of approximately 1,442 square feet, including 392 square feet of lanais. Each has a common interest of 1.30 per cent.

In building C, Apartments C-1-C to C-3-C, inclusive, are located on the first floor; each contains 1 bedroom, 1 bathroom, a living-dining room, kitchen and one (1) lanai with a total floor area of approximately 784 square feet, including 84 square feet of lanai, and each has a common interest of 0.98 per cent. Apartments C-1 to C-8, inclusive, are two-story apartments occupying the second and third floor of Building C. Each contains 2 bedrooms, 2 bathrooms, a living-dining room, kitchen, and two (2) lanais, with a total floor area of approximately 1,442 square feet, including 392 square feet of lanais. Each has a common interest of 1.30 per cent.

In Building D, Apartments D-1-D to D-3-D, inclusive, are located on the first floor; each contains 1 bedroom, 1 bathroom, a living-dining room, kitchen and one (1) lanai, with a total floor area of approximately 784 square feet, including 84 square feet of lanai, and each has a common interest of 0.98 per cent. Apartments D-1 to D-11, inclusive, are two-story apartments occupying the second and third floors of Building D. Each contains 2 bedrooms, 2 bathrooms, a living-dining room, kitchen, and two (2) lanais, with a total floor area of approximately 1,442 square feet, including 392 square feet of lanais, except for D-1 and D-2, each of which has a total floor area of 1,372 square feet, including 322 square feet of lanais. Each has a common interest of 1.30 per cent.

In Building E, Apartments E-1-E to E-5-E, inclusive, are located on the first floor; each contains 1 bedroom, 1 bathroom, a living-dining room, kitchen and one (1) lanai, with a total floor area of approximately 784 square feet, including 84 square feet of lanai, and each has a common interest of 0.98 per cent. Apartments E-1 to E-11, inclusive, are two-story apartments, occupying the second and third floors of Building E. Each contain 2 bedrooms, 2 bathrooms, a living-dining room, kitchen and two (2) lanais, with a total floor area of approximately 1,442 square feet, including 392 square feet of lanais, and each has a common interest of 1.30 per cent.

Building F contains 12 two-story apartments numbered F-1 to F-12, inclusive. Each contains 2 bedrooms, 2 1/2 bathrooms, a living-dining room, kitchen, and two (2) lanais. Each contains a total floor area of approximately 1,414 square feet, including 308 square feet of lanais, and each has a common interest of 1.30 per cent.

Building G constitutes 1 commercial apartment containing 1 bedroom, 1 bathroom, a living room, dining room, kitchen, office and storage area, and a floor area of approximately 1,144 square feet, and has a common interest of 1.44 per cent.

The area designated "Cabana" on said plans constitutes 1 commercial apartment containing a Snack Shop and Bar, storage area, seating area and restrooms, and a floor area of approximately 784 square feet, and has a common interest of 0.98 per cent.

NOTE: The above description of the 81 apartment units was taken from the plans of the project and not from the recorded Declaration of Horizontal Property Regime. The Developer has advised the Commission that the Declaration of Horizontal Property Regime will be amended prior to the issuance of a Final Public Report in conformance to the description of the apartments as set forth above.

- (b) Each apartment has immediate access to the grounds of the project, or walkways across the face of the buildings, connecting to stairways which connect to the grounds and driveways of the project;
- (c) The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment

or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve any other apartment, the same being deemed 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 walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

COMMON ELEMENTS: The common elements will include the limited common elements hereinafter described and all other portions of the land and improvements other than the apartments, including the apartment buildings, parking lots and interest in the land on which they are located, and all elements mentioned in the Horizontal Property Act which are actually constructed on the land described herein, and specifically shall include, but shall not be limited to: (1) The land in fee simple; (2) All foundations, columns, girders, beams, supports, bearing walls, corridors, fire escapes, entry halls, stairs, lobbies, walkways, entrances and exits of improvements in the project; (3) The roofs; (4) All yards, gardens, refuse and recreational areas, including the swimming pool and adjacent areas and the areas labelled "Gazebo" on said plans; (5) Parking areas and driveways; provided, however, that the right to use parking spaces in the parking areas may be rented or assigned for the exclusive use of certain apartments or otherwise disposed of by the Association under such terms and conditions as it determines; (6) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, cold and hot water, refuse and telephone; and (7) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called and designated "limited common elements," are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows: (1) One (1) parking space designated on the Condominium File Plan as assigned to each respective apartment and having stall numbers corresponding to each respective apartment number shall be reserved for the exclusive use by the owner thereof, except that Building G shall be assigned two (2) such parking spaces; (2) The entries, stairways, hallways and walkways in any residential building of the project shall be appurtenant to and for the exclusive use of the apartments of such buildings; and (3) The hallways and walkways on any floor of any residential building of the project shall be appurtenant to and for the exclusive use of the apartments on such floors.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project (herein called the "common interest"), as set forth hereinabove under the topical heading "DESCRIPTION," and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Project may at all times be used for purposes permitted from time to time by state and county planning authorities as set forth in the Declaration of Horizontal Property Regime. The owners of the respective apartments shall have absolute right to lease the same, subject to the limitations, restrictions, covenants and conditions of the Declaration and of the By-Laws of the Association. The commercial unit may be used for any and all lease purposes.

OWNERSHIP TO TITLE: In the Notice of Intention submitted as part of the registration the Developer states that ownership of title to the land committed to the regime is in the names of Kiyoshi Yabui, unmarried, Toshio Yabui, husband of Shizue Yabui, and Yoshiharu Yabui, husband of Sodeko Yabui. The Certificate of Title executed on July 16, 1971 by the Abstractor, Security Title Corporation, verifies that title to the land is vested in said individuals.

ENCUMBRANCES AGAINST TITLE: The Certificate of Title certifies that the land committed to the project is subject to the following encumbrances: Lease from Kiyoshi Yabui, Toshio Yabui, and Yoshiharu Yabui, as "Lessor" to Inland Marine Development, Inc., a Hawaii corporation, as "Lessee," dated December 31, 1968, recorded in Liber 6391, page 177, amended by instrument dated December 9, 1969, recorded as aforesaid in Liber 6826, page 450, assigned to Developer by instrument dated June 14, 1971, recorded in Liber 7603, page 192, as amended by instrument dated July 10, 1971, recorded in Liber 7675, page 68. Term: Seventy-five (75) years commencing on December 31, 1968. Mortgage and Financing Statement dated June 12, 1971, by Developer in favor of Territorial Savings & Loan Association, consideration: \$3,200,000.00 and further advances, filed in Liber 7603, page 228. Building Loan Agreement dated June 12, 1971, by and between Territorial Savings & Loan Association, as "lender," and the Developer, as "borrower," filed on June 15, 1971 in Liber 7603, page 203. Declaration of Horizontal Property Regime executed July 10, 1971, with By-Laws of Association of Apartment Owners attached, recorded in the Bureau of Conveyances, State of Hawaii, in Liber 7675, page 145, with Condominium File Plan No. 194. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patents 4697 and 1663. As to that portion of the land bordering on the ocean: (a) The effects of the decision by the Supreme Court of the State of Hawaii in the case of Application of Ashford (1968) 50H. 314, 440P. 2d 76; and (b) The effects of Section 205-31 to 205-37 inclusive, Hawaii Revised Statutes, as now or hereafter amended. Taxes for the fiscal year 1970-1971 have been paid in full.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated July 13, 1971, between Security Title Corporation, as "Escrow" and McGowan-Mahoe Development Company, as "Seller," has been filed with the Commission. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly Section 514-35 through Section 514-40.

Among other provisions, the Escrow Agreement provides that Escrow Agent shall refund to purchaser all of purchaser's funds, without interest and less Escrow's \$15.00 cancellation fee if purchaser shall in writing request refund of his funds and any one of the following shall have occurred: (a) Escrow Agent receives the written request from Developer and Territorial Savings and Loan Association to return to purchaser the funds of purchaser held under the Escrow Agreement by Escrow Agent, or (b) If purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any change in the building plans, subsequent to the execution of purchaser's contract, requiring the approval of a county officer having jurisdiction over the issuance of permits for construction, unless the purchaser has given written approval or acceptance of the change; or (c) If purchaser entered into a Contract of Sale prior to the time of issuance of the Final Report and the Final Report differs in any material respect from the Preliminary Report, unless the purchaser has given written approval or acceptance of the difference; or (d) If the Final Report is not issued within one year from the date of issuance of the Preliminary Report; or (e) If any event has occurred, which, under Chapter 514, Hawaii Revised Statutes, gives purchaser the right to refund of his purchaser's funds.

It is incumbent upon the purchaser and prospective purchaser that he reads with care the Sales Contract and the executed Escrow Agreement. The latter document, the Escrow Agreement, establishes how the proceeds from the sale of apartments 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 Developer will appoint a managing agent prior to completion of construction and occupancy by Purchasers.

STATUS OF PROJECT: In the Notice of Intention the Developer advised that construction started on July 1, 1971. The Standard Form of Agreement between Owner and Contractor (AIA Document A 101) executed January 25, 1971, between McGowan-Mahoe Development Company, the "Owner" and Michael M. Shiraishi, Inc., the "Contractor," states that work under the Contract would be completed not

later than January 1, 1973. The estimated completion date is September 1, 1972. The Developer advised that as of the date of issuance of this Preliminary Public Report, the construction is 20% completed.

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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 September 1, 1971, and additional information subsequently filed as late as September 27, 1971.

This is a Preliminary Horizontal Property Regime Condominium Public Report which is made a part of Registration No. 410 filed with the Commission on September 1, 1971. 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.

  
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 MAUI  
ESCROW AGENT  
FEDERAL HOUSING ADMINISTRATION

September 29, 1971  
Registration No. 410