

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

MAKANI SANDS APARTMENTS
Honokowai, Lahaina, Maui

REGISTRATION NO. 511

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: March 27, 1973

Expires: April 27, 1974

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 DECEMBER 29, 1972. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES.

1. MAKANI SANDS APARTMENTS is a proposed leasehold condominium project consisting of one (1) residential structure, containing thirty (30) dwelling units, 33 parking stalls, a swimming pool, an office and equipment building (also designed for use by the resident manager) and a sewage treatment plant.
2. The Developer proposes to convey apartments by way of an Apartment Deed, which purports to convey an apartment in fee simple, and a specified undivided interest in and to the common elements of the apartment building on the land. Together with such Apartment Deed,

the Developer proposes to lease to the purchaser, by way of a Ground Lease, a specified interest in and to the land. The Ground Lease specifically provides that no assignment, mortgage or sublease may be made of the Ground Lease separate and apart from a transfer of the apartment with which the Ground Lease was issued.

3. 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.
4. The basic documents (Declaration of Horizontal Property Regimes, By-Laws of the Association of Apartment Owners, and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.
5. The Developer has submitted the construction plans showing typical floor plan for the one-bedroom, two-bedroom and townhouse apartments and also a plot plan of the project.
6. 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 Regime.
7. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, March 27, 1973, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of the report.

NAME OF PROJECT: MAKANI SANDS APARTMENTS

LOCATION: The 38,885 square feet, more or less, of land submitted to the regime, is located on the makai or westerly side of Honoapiilani Highway, Honokowai, Maui, Hawaii. The lot has a frontage on said Honoapiilani Highway of 190 feet and a rear boundary of approximately 182 feet abutting the ocean and along the highwater mark.

TAX KEY: Second Division 4-3-06:12 and 50

ZONING: Apartment A-2 District

DEVELOPER: DBG Enterprises, Inc., is a Hawaii corporation, whose principal place of business is Honokowai, Lahaina, Maui, Hawaii, and whose post office address is P. O. Box 235, Lahaina, Maui, Hawaii 96761; Telephone No. 669-6973. Said corporation was incorporated by the Department of Regulatory Agencies of the State of Hawaii on August 6, 1969, as Pacific Security Financial Corp., which name was later changed to DBG Enterprises, Inc., on July 7, 1972. The officers and directors are:

<u>Name</u>	<u>Office</u>	<u>Address</u>
BILL R. GEARHART	President and Director	Leinani Apartments Honokowai, Lahaina Maui, Hawaii 96761
CHARLIE O'NEAL	Vice President and Director	1374 Komohana Place Lahaina, Maui, Hawaii
DARLENE GEARHART	Secretary-Treasurer and Director	Leinani Apartments Honokowai, Lahaina Maui, Hawaii 96761

ATTORNEY REPRESENTING DEVELOPER: UEOKA, VAIL & LUNA (Attn: Mr. B. Martin Luna), 2103 Wells Street, Wailuku, Maui, Hawaii. Telephone: 244-7914.

DESCRIPTION: The improvements to be constructed on the land consist of a residential building with four (4) floors together with parking facilities, swimming pool, office and equipment building and a sewage treatment plant. The residential building will contain a total of eighteen (18) 1-bedroom and two (2) 2-bedroom apartment units, and ten (10) two-bedroom with den apartments. Said building will be constructed on concrete slabs on the ground floor, including the ground floor lanai and remaining parts of the building will be concrete and wood, with the roof consisting of wooden shake shingles. The description, including the location, apartment number and approximate area and other pertinent data relative to the respective apartments are as follows:

- (a) Nine of the ground floor and second floor apartments will consist of a living room, one bedroom, one bath, a kitchen and a lanai. The remaining apartment on each of the ground and second floors will consist of a living-dining room, two bedrooms, a kitchen, one bath and a lanai. The third and fourth floors are designed so that the divided spaces on each of said floors situated in a vertical alignment will constitute one apartment unit. By this design each of the apartments above the second floor will be two-level apartments and will contain a living room, den, dining room, a kitchen, one-half bath, and a lanai on the third floor, together with a stairway leading to the fourth floor space directly above wherein will contain two bedrooms, two baths, and a lanai for the corner apartments or two lanais for the eight units in between.
- (b) The apartments on the ground floor will be numbered 101 to 110, inclusive, starting from the easterly end of the building, or from right to left as viewed from the seaward boundary of the property. The apartments on the second floor will be numbered consecutively from 201 to 210, inclusive, starting from the easterly end of the building as in the case of the ground floor. The apartments on the third floor will be numbered 301 to 310, inclusive, starting from the easterly end of the building as in the case of the first two floors. The approximate areas of the respective apartments are as follows:
 - (i) Apartments 101 to 109 and 201 to 209 are located on the ground floor and second floor, respectively, of the building, and each of said apartments will contain a living area of approximately 675 square feet with a lanai of approximately 117 square feet, or a total area, inclusive of lanai, of approximately 792 square feet;
 - (ii) Apartments 110 and 210 will be located on the westerly corner of the ground floor and second floor, respectively, and each of said apartments will contain a living area of approximately 974 square feet, together with a lanai of approximately 160 square feet, or a total area, inclusive of lanai, of approximately 1,134 square feet.
 - (iii) Apartments 301 to 310 will be located on the third floor, and each of said apartments will contain the following areas: 301, approximately 1,398 square feet living area, and a lanai of approximately 234 square feet, for a total of approximately 1,632

square feet; 302-309, inclusive, approximately 1,398 square feet living area and a combined lanai area of approximately 307 square feet; for a total of approximately 1,705 square feet; 310, approximately 1,954 square feet living area and a lanai of approximately 320 square feet, for a total of approximately 2,274 square feet.

Each of the apartments on the ground floor will have access to a concrete walkway which is a common element, and each of the apartments on the second and third floors will have access to a balcony on the respective floors, which balcony leads to a stairway for access to the ground floor. The balcony and stairway are portions of the common elements.

OFFICE BUILDING: The office building is a separate unit containing an office and storage, and electrical rooms on the first floor, and an apartment for the use of the resident manager, consisting of one bedroom, one bath, kitchen and dining-living room. The office building will be a part of the common elements and the purchasers shall receive a specified interest therein.

COMMON ELEMENTS: The proposed Declaration states that the common elements shall include, but are not limited to, the following: (a) Undivided leasehold interest in the land; (b) All foundations, columns, girders, beams, supports, bearing walls, corridors, entry halls, stairs, elevator, walkways, entrances and exits of said building; (c) The roofs; (d) All yards and refuse areas; (e) All driveway and parking areas for 33 cars; (f) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, cold and hot water, refuse and telephone; (g) Swimming pool; (h) Office building; (i) Storage rooms, breezeways and all other devices or installations upon the land described, existing for or rationally of common use to all the owners of apartments within the Project.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that portions of the common elements are set aside and designated as limited common elements. The limited common elements are:

- (a) Parking Spaces. Each apartment will have as an appurtenance thereto one (1) parking space for the exclusive use of such apartment.
- (b) Walkways. The walkways connecting the ground floor Apartments 101 to 110, inclusive, to the main walkway are designated as limited common elements for the exclusive use of the apartments adjoining thereto.
- (c) Hallways. The hallways leading from the entrances of Apartments 201 to 210, inclusive, and 301 to 310, inclusive, to the balcony on the second and third floors, respectively, are designated as limited common elements for the exclusive use of the apartments adjoining thereto.
- (d) Mail Boxes. The mail boxes belonging to each apartment are set aside as limited common elements for the exclusive use of the apartments to which they belong.

Except for said parking spaces, walkways, hallways, and mail boxes, there are no other restricted or limited common elements.

INTEREST TO BE CONVEYED PURCHASER: According to the specimen copies of the conveyance documents submitted to the Commission, the Developer proposes to convey apartments by way of an Apartment Deed which purports to convey an apartment in fee simple and a specified undivided interest in and to the common elements of the apartment building. Together with such Apartment Deed, the developer proposes to lease to the purchaser, by way of a Ground Lease, a specified undivided interest in and to the land submitted to the

Horizontal Property Regime. The Ground Lease specifically provides that no assignment, mortgage or sublease may be made of the Ground Lease separate and apart from a transfer of the apartment with which the Ground Lease was issued.

Under the provisions of the Declaration, the undivided interest in the common elements ("common interest") appertaining to each of the respective apartments and the undivided interests to be demised under the Ground Lease to each of the respective apartment purchasers are as follows:

<u>Apartment No.</u>	<u>Common Interest</u> <u>Undivided Interest in Ground Lease</u>
101 through 109) 201 through 209)	.023
110 and 210	.034
301	.048
302 through 309	.050
310	.070

The foregoing common interests also represent the proportionate share of the respective apartment owners in all common profits and common expenses and for all other purposes, including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The purpose for which the apartments are intended and restricted as to use is residential; provided, that this shall not be construed to prohibit the renting or leasing of said apartments for profit, individually or otherwise, so long as the Association of Apartment Owners approves such use as provided in the By-Laws of Apartment Owners, and the ultimate tenant thereof uses the apartment as a place in which to reside as distinguished from a place in which to carry on a trade or business.

OWNERSHIP OF TITLE: The Notice of Intention states that the ownership to the fee title of the land submitted to the Horizontal Property Regime is vested in DBG Enterprises, Inc., the Developer herein.

A preliminary title report prepared by First American Title Company of Hawaii, Inc., dated February 2, 1973, certifies that the fee simple title to the land is vested in said DBG Enterprises, Inc., by Deed dated December 5, 1972, recorded in Liber 8853, Page 328.

ENCUMBRANCES AGAINST TITLE: Said preliminary title report as of February 2, 1973 certifies that the records reveal no liens or encumbrances against said title, save and except the following: (a) Construction Loan Mortgage in favor of USF Investors, a Georgia business trust, dated March 22, 1972, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 8230, Page 49, with an Additional Charge Mortgage and Modification Agreement dated December 5, 1972, recorded in Liber 8853, Page 322; (b) The reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent Grant No. 415; (c) The decision of the Supreme Court of the State of Hawaii in In Re Application of Ashford, 50 Haw. 314 (1968), as the same affects the seaward boundary of the land submitted to the Horizontal Property Regime; (d) The effect of Section 205-31 to 205-37, inclusive, Hawaii Revised Statutes, regarding shoreline setback requirements; and (e) Taxes for the first half of the fiscal year 1972 - 1973 have been paid in full.

PURCHASE MONEY HANDLING: A copy of the Escrow Agreement duly executed and dated January 5, 1973, between DBG Enterprises, Inc., as Developer, and First American Title Company of Hawaii, Inc., as Escrow, has been submitted to the Commission as part of this registration. The specimen "Contract of Sale" and the executed "Escrow Agreement" have been examined. Among other

conditions, the Escrow Agreement provides for the payment of all monies under the Contract of Sale to the Escrow and that Escrow shall not disburse any funds to the Vendor unless and until an Apartment Deed to the Purchaser has been duly recorded and the Construction Loan Mortgage has been released and discharged as to the apartment described in the Apartment Deed. The Escrow Agreement also provides that the Escrow shall refund all monies of the Purchaser held by Escrow upon the happening of, among other things, the following: (i) Receipt of written notice from Vendor and Purchaser that changes in the condominium building plans have been made which require the approval of the County Officer having jurisdiction thereof, and that such changes have not been approved and accepted in writing by the Purchaser; (ii) Receipt of written notice from Vendor and Purchaser that the Final Public Report has not been issued within one year from the date of issuance of the Preliminary Report; (iii) Receipt of written notice from the Vendor and Purchaser that the Final Public Report issued by the Real Estate Commission differs in any material respect from the Preliminary Report.

The requirements of Section 514-35 through 514-40, Hawaii Revised Statutes, have been met in the Contract of Sale.

Among other provisions, the specimen Contract of Sale provides that the Agreement shall be and serve only as a reservation or declaration of intent to purchase on the part of the Purchaser without binding effect on either of the parties, except that the Agreement shall be binding and enforceable upon the happening of the following events: (i) the issuance of a Final Report by the Real Estate Commission within one year from the date of issuance of the Preliminary Public Report; (ii) the delivery of said Final Public Report to Purchaser and the Purchaser has had a full opportunity to read the same; and (iii) the Final Public Report shall not differ in any material respect from the Preliminary Report. Further, in the event that there shall be any change in the condominium building plans subsequent to the execution of the Contract of Sale, which change shall require the approval of the County Officer having jurisdiction thereof, the Vendor is required to refund to Purchaser all payments made by Purchaser unless Purchaser shall approve or accept in writing such change or changes in the condominium building plans.

MANAGEMENT AND OPERATION: The proposed Declaration states that the administration of the Horizontal Property Regime shall be vested in the "Association of Apartment Owners" of the Project, referred to as the "Association". Each owner of an apartment automatically, upon becoming an owner, becomes a member of said Association and remains a member until such time as his ownership ceases. Under the proposed By-Laws the Association will have the responsibility of the general administration of the project, including the approving of the annual budget, establishing and collecting monthly assessments, and arranging for the management of the project by a managing agent. The Board of Directors are given the power and duty to manage, operate, care, and maintain the property of the regime, the common elements and the limited common elements, and to employ and dismiss personnel necessary for the maintenance, operation, repair, and replacement of the common elements.

FINANCING OF THE PROJECT: The Notice of Intention indicates that the developer has obtained a Construction Mortgage and by virtue of said Mortgage the construction of the project was begun. The Developer, however, has not obtained any commitments for permanent mortgages of individual apartment units. It is the intent of the Developer to leave each prospective Purchaser to obtain a mortgage from such bank or savings and loan institution as the Purchaser may desire. The Developer proposes to do no more than to advise the Purchasers as to what lending institutions may have funds available for condominium loans and to which Purchasers may apply.

STATUS OF THE PROJECT: The construction of the project was commenced on or about May 30, 1972, and as of the date of filing of the Notice of Intention on

December 29, 1972, eighty per cent (80%) of the project was completed. The estimated date of completion is set forth as April 20, 1973, in the Notice of Intention.

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 December 29, 1972.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 511 filed with the Commission December 29, 1972.

The 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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REGISTRATION NO. 511

March 27, 1973