

**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

MAALAEA KAI  
Waikapu, Wailuku, Maui, Hawaii

REGISTRATION NO. 609

**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: October 3, 1973  
Expires: November 3, 1974

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 AUGUST 21, 1973. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, HAWAII REVISED STATUTES, CHAPTER 514.

1. MAALAEA KAI is a leasehold condominium project consisting of seventy-nine (79) apartments arranged throughout a single building of four (4) stories, including the ground floor. The common elements include the office and apartment manager's building, the exterior balconies located on each floor above the ground floor, walks, stairways, elevators and elevator shafts, swimming pool, and

filtration plant, parking areas, the trash room and electric room located on the ground floor, trash chute, and outdoor lighting.

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 Hawaii Revised Statutes, Chapter 514, and the rules and regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, October 3, 1973, 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: MAALAEA KAI

LOCATION: The approximate 2.288 acres of land to be committed to the regime is situated at Waikapu, Wailuku, Maui, Hawaii.

TAX KEY: SECOND DIVISION 3-8-14-19, 20, 21

ZONING: A-2

DEVELOPER: E & G DEVELOPMENT COMPANY, INC., a Hawaii corporation, registered with the Department of Regulatory Agencies of the State of Hawaii on November 17, 1972, whose address is: 309C Lalo Place, Kahului, Maui, Hawaii.

The officers of the corporation are:

Guenther W. Schmidt  
President & Secretary

627 Pio Drive  
Wailuku, Maui, Hawaii

Earl F. Smith  
Vice-President & Treasurer

P. O. Box 542  
Lahaina, Maui, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Crockett & Crockett (Attention: Mr. William F. Crockett), 38 South Market St., Wailuku, Maui, Hawaii. Telephone: 244-3796.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the project is to consist of seventy-nine (79) apartments arranged throughout a single building of four (4) stories situate upon the 2.288 acres of land hereinbefore described. A free-standing, single story building, now existing upon the land submitted to the horizontal property regime will be renovated for use as an office and manager's apartment building.

The principal materials of which the apartment building shall be constructed are as follows: the foundation shall be of poured reinforced concrete; the ground floor slab shall be of poured in place concrete; the floor slabs above the ground floor shall be precast and prestressed concrete planks with three (3) inch concrete topping; the "mezzanine floor" within each of several apartments shall be of wood frame; the floor within each apartment shall be covered by carpet or vinyl asbestos; the structural frame (exterior and interior bearing walls), including the perimeter walls between the apartments, shall be of reinforced concrete block not less than eight (8) inches thick; the walls within each apartment shall be of metal studs covered by gypsum board; the roof will be wood framed.

The principal materials of which the office and manager's apartment building is constructed are as follows: the foundation is of reinforced concrete; the floor slab is of reinforced concrete; the exterior bearing walls are of hollow tile and redwood; the roof is of wood frame.

Apartments 101 through 112, and 114 through 120, are located on the ground floor. Apartments 101 through 105 are numbered, in ascending order, from south to north. Apartments 106 through 120 (there is no apartment numbered 113) are numbered, in ascending order, from west to east. Apartments 201 through 220 are located on the second floor. Apartments 201 through 205 are numbered, in ascending order, from south to north. Apartments 206 through 220 are numbered, in ascending order, from west to east. Apartments 301 through 320 are located on the third floor. Apartments 301 through 305 are numbered, in ascending order, from south to north. Apartments 306 through 320 are numbered, in ascending order, from west to east. Apartments 401 through 420 are located on the fourth floor. Apartments 401 through 405 are numbered, in ascending order, from south to north. Apartments 406 through 420 are numbered, in ascending order, from west to east.

The apartments are of five types: "A-One Bedroom Apartments"; "B-Two Bedroom Apartments"; "C-Two Bedroom Apartments"; "D-One Bedroom Apartments"; "E-Two Bedroom Apartments."

The following seventeen (17) apartments are A-One Bedroom Apartments: 111, 112, 114, 115, 116, 211, 212, 213, 214, 215, 216, 311, 312, 313, 314, 315, and 316.

Each A-One Bedroom Apartment shall consist of a bedroom, bath, entry, kitchen, living-dining area, and lanai, and each such apartment shall have an approximate enclosed floor space of 546 square feet, a lanai of approximately 112 square feet, and an approximate total floor area of 658 square feet.

The following forty-four (44) apartments are B-Two Bedroom Apartments: 101, 105, 106, 107, 108, 109, 110, 117, 118, 119, 120, 201, 205, 206, 207, 208, 209, 210, 217, 218, 219, 220, 301, 305, 306, 307, 308, 309, 310, 317, 318, 319, 320, 401, 405, 406, 407, 408, 409, 410, 417, 418, 419, and 420.

Each B-Two Bedroom Apartment shall consist of two bedrooms, two baths, entry, kitchen, living-dining area, and lanai, and each such apartment shall have an approximate enclosed floor space of 878 square feet, a lanai of approximately 100 square feet, and an approximate total floor area of 978 square feet.

The following six (6) apartments are C-Two Bedroom Apartments: 411, 412, 413, 414, 415, and 416.

Each C-Two Bedroom Apartment shall be located on two levels (the first level of the apartment and the mezzanine level of the apartment), and shall consist of a bedroom, bath, entry, kitchen, storage area, living-dining area, and lanai, all located on the first level of the apartment, an interior stairway connecting the first level of the apartment and the mezzanine level of the apartment, and a bedroom and bath, all located on the mezzanine level of the apartment, and each such apartment shall have an approximate enclosed floor space (two levels) of 778 square feet, a lanai of approximately 113 square feet, and an approximate total floor area of 891 square feet.

The following nine (9) apartments are D-One Bedroom Apartments: 102, 103, 104, 202, 203, 204, 302, 303, and 304.

Each D-One Bedroom Apartment shall consist of a bedroom, bath, entry, kitchen, living-dining area, and lanai, and each such apartment shall have an approximate enclosed floor space of 592 square feet, a lanai of approximately 108 square feet, and an approximate total floor area of 700 square feet.

The following three (3) apartments are E-Two Bedroom Apartments: 402, 403, and 404.

Each E-Two Bedroom Apartment shall be located on two levels (the first level of the apartment and the mezzanine level of the apartment), and shall consist of a bedroom, entry, bath, kitchen, living-dining area, and lanai, all located on the first level of the apartment, an interior stairway connecting the first level of the apartment and the mezzanine level of the apartment, and a bedroom and a half bath, all located on the mezzanine level of the apartment, and each such apartment shall have an approximate enclosed floor space (two levels) of 824 square feet, a lanai of approximately 108 square feet, and an approximate total floor area of 932 square feet.

Each apartment located on the ground floor (apartments 101 through 112, and 114 through 120) shall have immediate access to the land submitted to the horizontal property regime. The remaining apartments shall have immediate access to an adjacent exterior balcony located on each story above the ground floor, and elevators, and elevator shafts, and stairways, between and connecting the stories above the ground floor and the ground floor.

Each apartment shall consist of the space measured horizontally by the distances between the interior surfaces of the perimeter walls of each apartment, and the space measured by the lanai of each apartment, and measured vertically by the distances between the topside surface of the concrete floor and the underside surface of the ceiling of each apartment (in the case of each apartment located on two levels, "surface of the concrete floor" shall mean the floor of the first level, and "surface of the ceiling" shall mean the ceiling over the second level, and the ceiling over that portion of the first level not covered by the second level).

In addition to the rights and easements created and established by Haw. Rev. Stat. Chapter 514 in and with respect to the common elements of the horizontal property regime hereby established, each apartment shall have appurtenant thereto, under and by virtue of this Declaration of Horizontal Property Regime, a non-exclusive easement in the common elements designed for such purpose for ingress and egress, utility services, support, maintenance and repair, as the case may be; and the Association shall have the irrevocable right, under and by virtue of this Declaration of Horizontal Property Regime, and in addition to the rights created and given to the apartment owners by Haw. Rev. Stat. Section 514-6(f), to be exercised by its Board of Directors, Manager or Managing Agent, as the case may be, to enter each apartment from time to time during reasonable hours as may be necessary for the repair, replacement, restoration or installation of any common element.

COMMON ELEMENTS: The proposed Declaration reflects that the common elements include:

(a) The land submitted to the horizontal property regime, and the super-adjacent air space above the roof, and next to the exterior walls, of the apartment building.

(b) All foundations, columns, beams and supports, girders, roof, structural frame, exterior walls, perimeter walls between apartments, floors and ceilings (but not the floor between the two levels of each apartment located on two levels).

(c) The office and apartment manager's building, the exterior balconies located on each floor above the ground floor, walks, stairways, elevators and elevator shafts, swimming pool, and filtration plant, parking areas, the trash room and electric room located on the ground floor, trash chute, 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.

(e) All tangible personal property, accounts, general intangibles, instruments and money, and any apartment acquired and held by the Association of Apartment Owners or the Board of Directors of the horizontal property regime, or their agents, for the administration, maintenance, safety and operation of the common elements of the horizontal property regime, or for the common use and benefit of the apartment owners.

(f) All other apparatus and installations existing for, or rationally of common use to, or necessary or convenient to the existence, maintenance or safety of all the apartments of the horizontal property regime.

LIMITED COMMON ELEMENTS: There shall be appurtenant to each of the following pairs of apartments, as a limited common element, appertaining to and reserved for the joint and exclusive use of each such paired apartments, the entry between the paired apartments, as shown and marked on the Condominium Map:

111/112  
115/116  
211/212  
213/214  
215/216  
311/312  
313/314  
315/316  
411/412  
413/414  
415/416

INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration reflects that the percentage of undivided interest in the common elements appertaining to the apartments is as follows:

Apartment No.	101	1.4306%
	102	1.0148%
	103	1.0148%
	104	1.0148%
	105	1.4306%
	106	1.4306%
	107	1.4306%
	108	1.4306%
	109	1.4306%
	110	1.4306%
	111	.9497%
	112	.9497%
	114	.9497%
	115	.9497%
	116	.9497%
	117	1.4306%
	118	1.4306%
	119	1.4306%
	120	1.4306%
	201	1.4306%
	202	1.0148%
	203	1.0148%
	204	1.0148%
	205	1.4306%
	206	1.4306%
	207	1.4306%
	208	1.4306%
	209	1.4306%
	210	1.4306%
	211	.9497%
	212	.9497%
	213	.9497%
	214	.9497%
	215	.9497%
	216	.9497%
	217	1.4306%
	218	1.4306%
	219	1.4306%
	220	1.4306%

301	1.4306%
302	1.0148%
303	1.0148%
304	1.0148%
305	1.4306%
306	1.4306%
307	1.4306%
308	1.4306%
309	1.4306%
310	1.4306%
311	.9497%
312	.9497%
313	.9497%
314	.9497%
315	.9497%
316	.9497%
317	1.4306%
318	1.4306%
319	1.4306%
320	1.4306%
401	1.4306%
402	1.3522%
403	1.3522%
404	1.3521%
405	1.4306%
406	1.4306%
407	1.4306%
408	1.4306%
409	1.4306%
410	1.4306%
411	1.2865%
412	1.2865%
413	1.2865%
414	1.2865%
415	1.2865%
416	1.2865%
417	1.4306%
418	1.4306%
419	1.4306%
420	1.4306%

The undivided interests established and to be conveyed with the respective "apartments" cannot be changed, and the Developer 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 Declaration further provides that the Developer shall execute and deliver a uniform "apartment ground lease" for each apartment with a common termination date, and an "apartment deed" for the buildings and improvements submitted to the horizontal property regime. 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 the undivided interest shown above.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments shall be used as residential apartments, but such apartments may be leased or rented from time to time to transients.

OWNERSHIP OF TITLE: A Preliminary Report dated August 8, 1973, prepared by Title Guaranty of Hawaii, Incorporated, certifies that E & G DEVELOPMENT COMPANY, INC., a Hawaii corporation, has title to the land committed to the project.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report, prepared August 8, 1973, by Title Guaranty of Hawaii, Incorporated, 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, 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; Mortgage dated March 29, 1973, made by E & G Development Company, Inc., to USF Investors, a Real Estate Investment Trust organized under the laws of the State of Georgia, recorded in Liber 9064, Page 44.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated July 9, 1973, identifies Landmark Escrow, Ltd., a Hawaii corporation, as the Escrow Agent.

On examination the specimen Contract of Sale and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Chapter 514, and particularly Hawaii Revised Statutes, Section 514-35 and Section 514-36 through Section 514-40.

Among other provisions the executed Escrow Agreement states that a purchaser under a contract of sale shall be entitled to a refund of all money deposited with Escrow, and Escrow shall return such funds to such purchaser, without interest, and less a cancellation fee of \$25 to be kept by Escrow, if a purchaser shall file with Escrow a written request for the refund of such funds, and if any of the following events shall have occurred:

(i) If funds were obtained from an apartment purchaser prior to the issuance of a final public report upon the project by the Hawaii Real Estate Commission, and 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 Developer obtains the written approval or acceptance of such specific change in building plans by such apartment purchaser.

(ii) 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.

(iii) Such Final Public Report is not issued within one (1) year from the date of issuance of such Preliminary Public Report.

(iv) Upon the occurrence of any other event which, under Haw. Rev. Stat., Chapter 514, gives an apartment purchaser under a contract of sale the right to a refund of his purchase money deposited in escrow.

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 apartments and all sums received from any source are placed in trust, as well as the retention and disbursement of said trust funds.

FINANCING OF PROJECT: USF Investors, a real estate investment trust, whose place of business is at 620 "C" Street, San Diego, California, has loaned E & G Development Company, Inc. the amount of \$2,600,000 for the project. Of this amount the sum of \$1,500,000 has been allocated for the construction of the project and for architectural and engineering costs.

The loan has closed, and the lender is disbursing funds from the loan proceeds to pay construction costs. The loan is secured by a mortgage of all the property subject to the Declaration of Horizontal Property Regime given by E & G Development Company, Inc. to USF Investors, dated March 29, 1973, recorded at Liber 9064, Page 44.

STATUS OF PROJECT: Developer discloses that it has entered upon a contract for the construction of the project with Guenther W. Schmidt, dba "MAUI BUILDERS", dated August 14, 1973, for the full project as shown in the building plans and specifications. Construction commenced July 15, 1973, and the estimated date of completion is July 15, 1974. Approximately 10% of the work has been completed.

Section 4.5.1 of the General Conditions of the Contract provides as follows:

"The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment."

Section 13.2.2 of the General Conditions of the Contract provides as follows:

"If, within one year after the Date of Substantial Completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition."

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.

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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 August 21, 1973.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 609 filed with the Commission on August 21, 1973.

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.

  
~~(S)~~ DOUGLAS R. SODEHANI, CHAIRMAN  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

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ESCROW AGENT

October 3, 1973  
Registration No. 609