

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
NOELANI
Honokowai, Maui, Hawaii

REGISTRATION NO. 644

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: January 4, 1974
Expires: February 4, 1975

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 DECEMBER 4, 1973, AND ADDITIONAL INFORMATION SUBSEQUENTLY SUBMITTED ON JANUARY 4, 1974. THE DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. Noelani is a leasehold condominium project consisting of fifty (50) residential apartments, arranged throughout one four-story structure and two two-story structures. A parking stall is available to each apartment. All of the parking stalls are common elements.
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, in seeking the issuance of the Final Public Report prior to completion of the project, has complied with the requirements of Chapter 514-15, Hawaii Revised Statutes.
4. This Final Public Report is made a part of the registration of the Noelani project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for Horizontal Property Regime Public Report from each purchaser is also the responsibility of the Developer.
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 Commission has determined that the basic documents (Declaration of Horizontal Property Regime, Amendment to said Declaration, and By-Laws of the Association of Apartment Owners and a Report of the Approved Floor Plans) have been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime, dated November 15, 1973, with the By-Laws of the Association of Apartment Owners, was filed with the Bureau of Conveyances of the State of Hawaii in Liber 9599 on Page 298, on November 16, 1973. The Amendment to the Declaration of Horizontal Property Regime, dated December 21, 1973, was filed with said Bureau of Conveyances in Liber 9659 on Page 384 on December 21, 1973, and further amended by instrument dated January 2, 1974, recorded January 3, 1974, in Liber 9677, Page 313.

The Registrar of said Bureau of Conveyances has designated Condominium Number 321 to the project.

7. No advertising or promotional material has been submitted pursuant to the rules and regulations promulgated by the Commission.
8. Purchasers or prospective purchasers are advised to acquaint themselves with the provisions of Chapter 514, Hawaii Revised Statutes, and the condominium rules and regulations which relates to Horizontal Property Regimes.
9. This Final Public Report automatically expires thirteen (13) months after date of issuance, January 4, 1974, unless a Supplemental Public Report is issued or the Commission upon review of the registration issues an order extending the effective period of this report.

NAME OF PROJECT: NOELANI

LOCATION: The approximate 62,200 square feet of land to be committed to the regime is situated at Honoapiilani Highway, Honokowai, Lahaina, Island and County of Maui, State of Hawaii.

TAX KEY: SECOND DIVISION 4-3-9:1 & 2.

ZONING: A-2 Apartment 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. 669-6471. 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 & Director	Honokowai, Lahaina, Hawaii 96761
CHARLIA O'NEAL	Vice President & Director	1374 Komohana Place Lahaina, Hawaii 96761
DARLENE GEARHART	Secretary-Treasurer & Director	Honokowai, Lahaina, Hawaii 96761

ATTORNEY REPRESENTING DEVELOPER: Ueoka, Vail & Luna, (Attention: Mr. B. Martin Luna), 2103 Wells Street, Wailuku, Maui, Hawaii. Telephone: 244-7914 (Maui).

DESCRIPTION: The Declaration of Horizontal Property Regime reflects that the project is to consist of fifty (50) residential apartments arranged throughout one four-story structure, Building A, containing 32 apartments, and two two-story structures, Buildings B & C, containing eight and ten units, respectively. The structures will be situated on approximately 62,200 square feet of land hereinbefore described. 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 area of the lanai of each apartment; and measured vertically by the distance between the topside surface of the concrete floor and the underside surface of the ceiling.

The principal materials of which the said buildings are constructed are as follows:

- (1) Building A has (a) a concrete foundation, floor slabs, eight inch walls and columns; (b) concrete slabs over wood floors on the second through fourth floors and fire protected alternate concrete and wood frame walls; (c) sound proof party walls on all floors; (d) wood shakes on the roof with a hot mop layer on the horizontal flat areas; (d) a fire rating of one hour.
- (2) Buildings B and C each have (a) a concrete foundation and a fire protected concrete block structure with wooden single walls; (b) a concrete second floor; (c) wood shake roofs; and (d) a fire rating of one hour.

The grounds of the project shall be landscaped and will contain two swimming pools, and parking spaces for 51 cars. These are common elements.

Fifty individual apartment units hereby established shall be within the three buildings. Building A contains 32 units and Buildings B and C contain 8 and 10 units, respectively. The apartments are described as follows:

<u>Building</u>	<u>Apartment Nos.</u>	<u>Description</u>	<u>Area</u>		<u>Total</u>
			<u>Living</u>	<u>Lanai</u>	
A	101, 201, 301, 401	Two Bedrooms, Two Baths, Kitchen, Dining-Living Room Area, Wrap Around Lanai	813	268	1,081
A	102 - 109, 202-209	One Bedroom, One Bath, Kitchen, Dining-Living Room Area, Lanai	579	112	691
A	110, 210, 310, 410	Two Bedrooms, Two Baths, Kitchen, Dining-Living Room Area, Wrap Around Lanai	893	268	1,161
A	302, 309	Three Bedrooms, Two and One Half Baths, Kitchen, Dining Room, Sunken Living Room, Two Lanais	1,158	224	1,382
A	303-308	Three Bedrooms, Two and One Half Baths, Kitchen, Dining Room, Sunken Living Room, Two Lanais	1,195	224	1,419
B	111-114, 211-214	Bedroom-Dining-Living Room Area, Kitchenette, Bathroom-Closet Area, Lanai	295	94	389
C	115, 215	One Bedroom, One Bathroom-Closet Area, Kitchen, Dining-Living Room Area, Lanai	756	218	974
C	116-119, 216-219	Bedroom-Dining-Living Room Area, Kitchenette, Bathroom-Closet Area, Lanai	420	54	474

Building A is a newly constructed building while Buildings B and C were previously constructed and the apartments therein have been refurbished.

All of the apartments shall have immediate access to the open hallway immediately adjacent to and connecting the apartments on each story, stairways and lobbies.

COMMON ELEMENTS: The Declaration reflects that the common elements include: the structures and the property upon which they are located, and specifically includes, but is not limited to foundations, columns, beams and supports, girders, corridors, roofs, bearing walls, entrances and exits of said buildings, staircases, walkways, entry halls, driveways and parking areas, yards, refuse area, swimming pools, and sewage treatment plant; storage rooms, breezeways, all ducts, electrical equipment, wiring and other central and appurtenant installations for services, including power, light, water, refuse and telephone, and all other

elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the building.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called and designated "limited common elements" in the Declaration are set aside and reserved for the exclusive use of certain apartments and such apartments will have appurtenant thereto an exclusive easement for the use of such limited common elements. Said limited common elements set aside and reserved are the walkway or hallway immediately adjoining an apartment or apartments to and for the exclusive use of such apartment or apartments which it adjoins leading from such apartment or apartments to the grounds of the project.

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. The Declaration reflects that the percentage of undivided interest in the common elements appertaining to the apartments are as follows:

<u>Building</u>	<u>Apartment Nos.</u>	<u>Percentage Interest</u>	<u>Total</u>
A	101, 201, 301, 401	2.69 each	10.76
A	102-109, 202-209	1.72 each	27.52
A	110, 210, 310, 410	2.88 each	11.52
A	302, 309	3.44 each	6.88
A	303-308	3.53 each	21.18
B	111-114, 211-214	0.97 each	7.76
C	115, 215	2.47 each	4.94
C	116-119, 216-219	1.18 each	<u>9.44</u>
			100.00

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 Declaration reflects that the apartments shall be occupied and used by the respective owners as provided by the laws of the State of Hawaii and ordinances of the County of Maui only and for no other purpose.

OWNERSHIP OF TITLE: A preliminary title report prepared December 19, 1973, by American Abstract & Escrow Inc., a Hawaii corporation, reflects that the ownership of the subject parcels of land is in DBG Enterprises, Inc., a Hawaii corporation, by deed dated August 17, 1972, recorded in the Bureau of Conveyances, State of Hawaii, in Liber 8529, Page 139.

ENCUMBRANCES AGAINST TITLE: The preliminary title report, prepared December 19, 1973, by American Abstract & Escrow Inc., reflects that there are no liens or encumbrances of whatever kind or nature or record against said title, save and except the following:

- (1) Taxes - Tax Key: 4-3-09-1 & 2. Taxes for the year 1973-74 - information pending (As verified by the Developer's attorney).
- (2) As to the portions of the land described herein bordering on the ocean:
 - (a) The effect, if any, of the decision of the Supreme Court of Hawaii in the case of Application of Ashford (1968) 50 H. 314, 440 P.2d 76.
 - (b) The effect, if any, of Sections 205-31 to 205-37 inclusive, Hawaii Revised Statutes, as now or hereafter amended.
- (3) Mortgage executed by DBG Enterprises, Inc., a Hawaii corporation, in favor of USF Investors, a real estate investment trust organized under the laws of the State of Georgia, in the amount of \$1,924,500.00, dated August 18, 1972, recorded August 24, 1972, in Liber 8529, Page 144.

Said mortgage was amended by modification agreement dated December 5, 1972, recorded January 5, 1973, in Liber 8853, Page 336, adding new paragraph to above mortgage.
- (4) Mortgage executed by DBG Enterprises, Inc., Bill R. Gearhart, President, in favor of Condominium Consultants Corporation, a Hawaii corporation, in the amount of \$350,000.00, dated July 7, 1972, recorded August 2, 1973, in Liber 9363, Page 356.
- (5) The terms, provisions, agreements, covenants and conditions contained in Declaration of Horizontal Property Regime, establishing the Project as "Noelani" and the designation thereof on Condominium Map No. 321, dated November 15, 1973, recorded November 16, 1973 in Liber 9599, Page 298, and amended by Instrument dated and recorded December 21, 1973 in Liber 9659, Page 384; further amended by Instrument dated January 2, 1974 and recorded on January 3, 1974 in Liber 9677, Page 313. (As verified by the Developer's attorney).

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated November 2, 1973, identifies American Abstract & Escrow, Inc., 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 the 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 contract of sale, upon written request, shall be entitled to a refund of all monies deposited with Escrow, without interest, and less a \$15.00 cancellation fee, if any of the following events shall have occurred: (a) Escrow receives a written request from Developer to return to Purchaser the funds of such Purchaser then held hereunder by Escrow; or (b) if a Purchaser's funds were obtained prior to the issuance of a final public report and if there is any change in the condominium building plans, subsequent to the execution of Purchaser's Sales Contract, requiring the approval of a county officer having jurisdiction over the issuance of permits for construction of buildings, unless the Purchaser has given written approval or acceptance of the specific change; or (c) if a Purchaser's funds were obtained prior to the issuance of

a final public report and the request is prior to the time the final public report is issued; or (d) if the final public report differs in any material respect from the preliminary public report, unless the Purchaser has given written approval or acceptance of the difference; or (e) if the final public report is not issued within one year from the date of issuance of the preliminary public report; or (f) upon the occurrence of any other event which, under the Hawaii Revised Statutes, 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 dwelling 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 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.

STATUS OF PROJECT: A copy of the building contract with Global Contractors, Inc., was executed August 27, 1973. A 100% Performance Bond with a warranty of one year has been executed and a copy of said bond is on file with the Commission. The Developer in its verified statement gives Notice that the project will be completed five months from the date of the contract. Estimated completion date will be January 1974.

FINANCING OF PROJECT: The Developer advises the Commission that (a) on August 18, 1972, USF Investors, a real estate investment trust, provided a construction loan at 10% interest for 18 months, and (b) on July 7, 1973, Condominium Consultants Corporation provided an additional construction loan. At present the Developer has not obtained commitment from any lending institution for permanent mortgages of individual apartment units.

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 4, 1973, and additional information subsequently filed on January 4, 1974.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 644 filed with the Commission on December 4, 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 white.


(For) Douglas R. Sodehani, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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Bureau of Conveyances
Planning Dept., County of Maui
Federal Housing Administration
Escrow Agent

REGISTRATION NO. 644
JANUARY 4, 1974