

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
MAKANI KAI MARINA
Waialele Road
Kaneohe, Oahu, Hawaii

REGISTRATION NO. 646

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: July 11, 1975

Expires: August 11, 1976

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:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED DECEMBER 28, 1973, AND INFORMATION SUBSEQUENTLY FILED AS OF JULY 8, 1975. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES ACT, CHAPTER 514, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Report on March 15, 1974 and Supplementary Public Report dated September 25, 1974 on MAKANI KAI MARINA, Registration No. 646, the Developer reports that certain material changes have been made in the project. This Final Public Report (white paper stock) amends the Preliminary Public Report (yellow paper stock) and Supplementary Public Report (pink paper stock) becoming a part of MAKANI KAI MARINA

registration. The Developer is responsible for placing a true copy of this Final Public Report in the hands of all purchasers and prospective purchasers along with a copy of the Preliminary Public Report and Supplementary Public Report. The Developer is responsible for securing from each purchaser or prospective purchaser a signed receipt, signifying that he has had an opportunity to read all reports.

2. The Developer 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.
3. The Developer advised that the Declaration of Horizontal Property Regime and attached Bylaws has been filed in the Office of the Assistant Registrar of the Land Court as Land Court Document No. 706766 and recorded in the Bureau of Conveyances in Book 10345, Page 249. The Condominium Map has been filed with the Assistant Registrar as Condominium Map No. 238 and with the Bureau of Conveyances as Condominium Map No. 394.
4. No advertising and promotional materials have been submitted pursuant to the 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 condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after date of issuance July 11, 1975, unless another Supplementary Public Report issues or the Commission upon review of the registration issues an order extending the effective period of this report.

The information in the Preliminary Report of March 15, 1974, as revised by the Supplementary Report of September 25, 1974, under the topical headings DEVELOPER, ATTORNEY REPRESENTING DEVELOPER, DESCRIPTION OF PROJECT, LIMITED COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES, MANAGEMENT AND OPERATION, PURCHASE MONEY HANDLING and STATUS OF PROJECT have been changed. The Developer reports that no other information in the Preliminary and Supplementary Public Reports have been changed.

DEVELOPER: Developer is Pacific Western Construction Corp., a Hawaii corporation, whose address is Suite 408, 33 South King Street, Honolulu, Hawaii 96813, Tel. No. 521-4927, and whose principal officers are Robert C. Gordon, President, and William S. Hogarty, Vice President and Secretary-Treasurer.

ATTORNEY REPRESENTING DEVELOPER: Hiroshi Sakai, Attorney at Law, A Law Corporation, Suite 602, City Bank Building, 810 Richards Street, Honolulu, Hawaii 96813, Telephone: 531-4171.

DESCRIPTION OF PROJECT: The Preliminary Public Report listed measurements of the apartments to the exterior surfaces of exterior walls. Measurements of apartments, to the interior surfaces of perimeter walls are approximately as follows:

Type A	1,122 square feet
Type B	1,133 square feet
Type C	1,057 square feet
Type D	977 square feet
Type E	1,227 square feet
Type E1	1,227 square feet
Type F	1,258 square feet
Type G	1,087 square feet
Type H	1,230 square feet
Type J	1,247 square feet

Certain changes have been made to the description of the recreation center and manager's apartments as follows:

The recreation center is a single story building of approximately 2,083 square feet of floor area including a kitchen, men's and women's saunas, showers and bathrooms, a recreation room and lounge. There is a pool adjacent to the recreation center. The manager's unit is a two-story building of approximately 1,108 square feet with a kitchen, living room, dining room and storage and store rooms on the first level and a bathroom and bedroom on the second level.

The two parking stalls previously assigned to Apartment No. 42 (which apartment was deleted from the project) have been redesignated for guest parking.

LIMITED COMMON ELEMENTS: The Declaration shows the initial designation of boat docks in such a way that Apartment No. 1 has Boat Dock 101, Apartment No. 2 - Boat Dock 102 and so on. Developer has reserved the right to amend the Declaration one or more times without the joinder of any other party having an interest in the project to change the designation of which Boat Dock is assigned to which apartment; provided, however, the Developer shall not change any such designation with respect to an apartment of which Developer is no longer the fee owner without the consent of the grantee. Developer intends to exercise this right of amendment in order to convey to purchasers the boat docks designated in their purchase agreements. As more fully described below under the topic heading Encumbrances, Developer has retained an easement to use one boat dock initially designated as Boat Dock 142; Developer has retained the right to amend the Declaration to change this designation subject to the same limitations as to apartments already conveyed.

OWNERSHIP TITLE: The Preliminary Reports prepared by Title Guaranty of Hawaii, Inc. states that as of the date thereof, June 9, 1975, ownership of the fee title to the land of the project was vested in Pacific Western Construction Corp. and Windward Marine Service and Sales, Ltd. as tenants in common in undivided interests as follows:

Pacific Western Construction Corp. 70.8866%
Windward Marine Service and Sales, Ltd. 29.1134%

The preliminary reports further show the following:

- (1) As to Apartments 21 through 63 (No Apartment 42) and 67 through 80, Developer is the owner of the apartments and their undivided interest in the common elements of the project, amounting in the aggregate to 70.8866%.
- (2) As to Apartments 1 through 20 and 64 through 66, Developer is the owner of the apartments and their undivided interest in the common elements of the project other than land and the lessee under 23 individual groundleases from Windward Marine Service and Sales, Ltd. as Lessor leasing the undivided interest in the land of the project which is appurtenant to Apartments 1 through 20 and 64 through 66 amounting in the aggregate to 29.1134%.

ENCUMBRANCES: The Preliminary Report shows that the property is presently subject to:

1. Real Property Taxes, Second installment, Fiscal Year July 1, 1974 - June 30, 1975.
2. AS TO PARCEL "FIRST" ONLY: Easements for free flowage of water in all streams and auwais within said parcel, in favor of all persons entitled thereto, as amended by Land Court Order No. 3921, filed March 25, 1940.
3. AS TO PARCELS "SECOND" AND "THIRD" ONLY:
 - (a) The reservation in favor of the State of Hawaii of all mineral and metallic mines.
 - (b) Grant in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, dated June 25, 1962, recorded in Liber 4313 at Page 150.
 - (c) Grant of sewer easement in favor of the City and County of Honolulu, dated June 23, 1964, recorded in Liber 4805 at Page 231.
 - (d) Easements for free flowage of water in all streams and auwais within the land above mentioned, in favor of all persons entitled thereto.

4. AS TO PARCEL "FOURTH" (LOT B-2-A) ONLY:
- (a) An easement for free flowage of water in all streams and auwais within said parcel, in favor of all persons entitled thereto, as set forth by Land Court Order No. 3921, filed March 25, 1940.
 - (b) Grant of easement for utility purposes in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, dated June 14, 1956, filed as Land Court Document No. 190012.
 - (c) Delineation of sewer easement as shown on Map 36, as set forth by Land Court Order No. 23412, filed November 5, 1964.
 - (d) Grant of sewer easement in favor of the City and County of Honolulu, dated September 15, 1964, filed as Document No. 346080.
 - (e) Delineation of sewer easement as shown on Map 43, as set forth by Land Court Order No. 26853, filed March 13, 1967.
 - (f) Grant of sewer easement in favor of the City and County of Honolulu, dated February 14, 1967, filed as Document No. 411928.
5. AS TO PARCEL "FOURTH" (LOT 38-B-1) ONLY:
- (a) Grant of perpetual utility easement in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, dated October 7, 1947, filed as Document No. 95985.
 - (b) Delineation of sewer easement as shown on Map 126, as set forth by Land Court Order No. 23411, filed November 5, 1964.
 - (c) That certain Agreement dated June 25, 1974, made by and between Makani Kai Marina Development Company, and Michael M. Motoda, and Michael J. Kujubu, filed as Document No. 694498.
6. AS TO PARCEL "FIFTH" ONLY:
- (a) Easement "B, four feet wide, in favor of John W. and Elizabeth A. Anderson, Husband and Wife, as shown on Map 1 on Land Court Application No. 1186.
 - (b) An Easement for free flowage and drainage of water through the stream shown on Map 1 in favor of the City and County of Honolulu; and Easements for free flowage of water in all streams and auwais within said parcel

in favor of all persons entitled thereto,
as set forth by Land Court Order No. 3921,
filed March 25, 1940.

- (c) Final Order of Condemnation, Civil No. 15670,
in favor of the City and County of Honolulu,
condemning easements over a portion of said
parcel, dated May 2, 1968, filed as Document
No. 443417.
 - (d) Delineation of sewer easements as shown on
Map 44, as set forth by Land Court Order
No. 28702, filed July 5, 1968.
 - (e) Designation of Easement "E", as shown on
Map 46, as set forth by Land Court Order
No. 29372, filed December 26, 1968.
7. AS TO PARCEL "SIXTH" ONLY:
- (a) The reservation in favor of the State of Hawaii
of all mineral and metallic mines.
 - (b) Sewer Easement in favor of the City and County
of Honolulu, acquired by Final Order of Con-
demnation dated May 2, 1968, filed in Civil
No. 15670 in the First Circuit Court, and
recorded in Liber 6053 at Page 136.
 - (c) Easement A-1 (5 feet wide) for sewer purposes
and Easement B-1 (5 feet wide) for sewer purposes.
8. AS TO PARCEL "SEVENTH" ONLY:
- (a) The reservation in favor of the State of Hawaii
of all mineral and metallic mines.
 - (b) Sewer Easement in favor of the City and County
of Honolulu, acquired by Final Order of
Condemnation dated May 2, 1968, filed in
Civil No. 15670 in the First Circuit Court,
and recorded in Liber 6053 at Page 136.
9. AS TO PARCEL "EIGHTH" ONLY: An Easement for free
flowage and drainage of water through the stream
shown on Map 1 of Land Court Application 1196, in
favor of the City and County of Honolulu; and
Easements for free flowage of water in all streams
and auwais within said parcel in favor of all
persons entitled thereto, as set forth by Land
Court Order No. 3921, filed March 25, 1940.
10. AS TO PARCEL "NINTH" (PARCEL A) ONLY:
- (a) Delineation of Easement for drainage purposes
as shown on Map 18, as set forth by Land Court
Order No. 25859, filed June 29, 1966.

- (b) Delineation of sewer easements as shown on Map 23, as set forth by Land Court Order No. 30114, filed May 26, 1969.
 - (c) Sewer Easement in favor of the City and County of Honolulu, acquired by Final Order of Condemnation, Civil No. 17306 filed in the First Circuit Court, dated April 12, 1966, filed as Document No. 389342.
 - (d) Sewer Easement in favor of the City and County of Honolulu, acquired by Final Order of condemnation dated April 7, 1969, Civil No. 16967 and filed as Document No. 470163.
 - (e) The location of the seaward boundary in accordance with the law of the State of Hawaii.
11. AS TO PARCEL "NINTH" (PARCEL B) ONLY:
- (a) Reservation in favor of the State of Hawaii of all mineral and metallic mines.
 - (b) Easements of the free flowage of water in all streams and auwais within said parcel in favor of Chu Fong, Grantor under those certain Deeds dated October 11, 1952, recorded in Liber 2631 at Page 295 and dated February 12, 1955, recorded in Liber 3884 at Page 74, and others entitled thereto; and further the right unto said Chu Fong, his heirs and assigns, to make such changes in the course of said auwai on portions of the lands adjacent to said parcel, as said Chu Fong, in his discretion, shall desire.
 - (c) A Sewer Easement in favor of the City and County of Honolulu, acquired by Final Order of Condemnation dated April 7, 1969, filed in Civil No. 16967 in the First Circuit Court, and recorded in Liber 6475 at Page 245.
12. Mortgage dated July 9, 1974, in favor of Bank of Hawaii, filed as Document No. 689141 and also recorded in Liber 10024 at Page 48.
- Release of Security by Bank of Hawaii dated December 3, 1974, recorded in Liber 10345 at Page 207 and filed as Document No. 706763.
- Substitution of Security to Bank of Hawaii dated December 3, 1974, recorded in Liber 10346 at Page 339 and filed as Document No. 706793.
13. Declaration of Horizontal Property Regime with By-Laws attached dated December 3, 1974, filed as Land Court Document No. 706766 and recorded in Liber 10345 at Page 249. (Project covered by Condominium Map No. 238 and Condominium File Plan No. 394).

14. Mortgage dated June 5, 1975, in favor of Island Federal Savings and Loan Association of Honolulu and First Federal Savings and Loan Association of Phoenix, filed as Document No. 723147 and recorded in Liber 10697 at Page 325.

NOTES:

(1) Developer has advised the Commission that the Mortgage in favor of the Bank of Hawaii dated July 9, 1974 has been paid off by First Federal Savings and Loan Association of Phoenix and is being held as additional security by First Federal Savings and Loan Association of Phoenix for its loan of \$6,325,000.00 and does not increase the obligation of Pacific Western Construction Corp. beyond the \$6,325,000.00 loan as is set out in Page 6 of the Promissory Note.

(2) Developer in the Declaration of Horizontal Property Regime has excepted and reserved an easement over the common elements of the project consisting of the exclusive use of Dock No. 142 (or such other dock as Developer shall designate by amendment to the Declaration) together with an easement of ingress and egress for pedestrians and for not more than one motor vehicle. Developer has reserved the right to assign or lease such easement rights, which terminate on the earlier of the twenty-sixth anniversary of the date of the Declaration or such earlier date as Developer releases them.

(3) Developer has further reserved the right with the consent of Windward Marine Service and Sales, Ltd. to grant utility easements.

MANAGEMENT AND OPERATION: Developer has executed on behalf of the Association an Agreement of Agency for Management dated October 11, 1974 naming Bishop Trust Company, Limited as managing agent. The management fee is \$486.00 per month. The Agreement becomes effective upon completion of construction and acceptance by the individual owners and may be terminated by either party after one year upon thirty days written notice.

The new form of sales contract provides that all apartment owners including Developer will be responsible for the maintenance fees allocable to their apartments upon issuance of a certificate of occupancy for the apartment. Developer agrees, however, to pay the maintenance cost of those portions of the project which Developer is occupying for construction.

PURCHASE MONEY HANDLING: Developer has submitted to the Commission a copy of a revised specimen sales contract. The revised contract provides that sale of the apartment will close upon notice of readiness of occupancy. Since the original sales contracts require purchasers to close prior to completion of construction, the original purchasers will be offered the option of either terminating their original sales contract and receiving the return of their deposits or entering into the revised form of sales contract and applying their deposits to the revised contract. Upon examination, the new specimen sales contract is found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly with Section 514-15 and Section 514-36 through 514-40, Hawaii Revised Statutes.

NOTE: Purchasers should be aware that the Seller's mortgage loan (interim, renewals and extensions) used for the construction of the project shall be and remain at all times a superior lien on the project, and purchasers intentionally waive and subordinate the priority of any lien under the sales contract in favor of the mortgage loan.

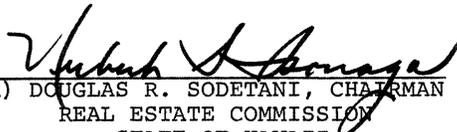
Developer has provided to the Real Estate Commission modified forms of the Ground Lease showing that the last rent renegotiation period is twelve years instead of ten. The subordination of the landlord's lien for rent to certain mortgages has been deleted but the mortgagee's right to notice and an opportunity to cure has been retained.

STATUS OF PROJECT: Developer has obtained a building permit for the project and has commenced construction. Developer estimates July, 1975 as the date of completion of the first apartments. The financing obtained by Developer for construction is sufficient to complete 72 apartments. As sales for these apartments close, the funds generated by such sales will be used to complete the remainder of the project. Completion of the entire project is estimated by the Developer for August, 1975. A Construction Contract dated June 9, 1975, was entered into by and between Pacific Western Construction Corp. and Windward Marine Service & Sales, Ltd., Island Marine Enterprises, Inc., Title Guaranty of Hawaii, Inc. and the Contractor, Robert C. Gordon.

NOTE: The Developer has advised the Commission that completion notices will be secured for individual buildings as it is completed and also the securing of partial releases from the Construction Contract.

The purchaser or prospective purchasers should be cognizant of the fact that this public report represents information disclosed by the Developer in the required Notice of Intention submitted December 28, 1973 and information subsequently filed as of July 8, 1975.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 646 filed with the Commission on December 28, 1973. The 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

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Registration No. 646

July 11, 1975