

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
DISCOVERY BAY
Ala Moana, Hobron Lane and Kaioo Drive
Honolulu, Hawaii

REGISTRATION NO. 758

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: November 19, 1976
Expires: December 19, 1977

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 MARCH 3, 1975, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED WITH THE REAL ESTATE COMMISSION AS OF NOVEMBER 17, 1976. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report on Registration No. 758, dated April 10, 1975 (the effective date of which has been extended to December 31, 1976), the Developer has prepared, assembled and formulated additional information relating to the project. This Final Public Report is made a part of the Registration on the DISCOVERY BAY condominium project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers receiving the Preliminary Public Report (yellow paper stock).

Securing a signed copy of the receipt for both Horizontal Property Regime Public Reports from each purchaser and prospective purchaser is also the responsibility of the Developer.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for the issuance of this Final Public Report prior to the completion of construction.

3. The advertising and promotional matter utilized in connection with the project has been submitted pursuant to the rules and regulations promulgated by the Commission.

4. 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 recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii. The Declaration of Horizontal Property Regime for the project, together with the By-Laws of the Association of Apartment Owners, was recorded in said Land Court on November 16, 1976 as Document No. 789431, and the condominium plans have been recorded in said Land Court as Condominium Map No. 295.

5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514 of the Hawaii Revised Statutes, and the condominium rules and regulations which relate to Horizontal Property Regime.

6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, November 19, 1976 unless a supplementary public report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

Except for the topical headings hereinbelow, the information under all other headings as recited in the Preliminary Public Report of April 10, 1975 remains unchanged.

TAX KEY: The Preliminary Public Report, dated April 10, 1975, as extended, incorrectly reflected that the tax key of the project was 2-16-12-10 through 21, inclusive (First Division). The actual tax key for the project is 2-6-12-10 through 21, inclusive (First Division).

DESCRIPTION: The recorded Declaration of Horizontal Property Regime reflects the following changes in the project:

(a) The number and location of parking stalls has been amended as follows:

(i) There will be only 925 declared and assigned parking stalls rather than 927 stalls as previously reported;

(ii) The first floor will contain 65 rather than 66 parking stalls, all of which are part of the Commercial Unit;

(iii) The fourth floor will contain 163 rather than 162 parking stalls, of which 141 stalls are part of the Commercial Unit;

(iv) The seventh floor will contain 141 rather than 140 parking stalls;

(v) The eighth and ninth floors will each contain 67 rather than 68 parking stalls; and

(vi) The tenth floor will contain 45 rather than 46 parking stalls.

(b) On the forty-second floor of the Endeavor Tower, the residential units are numbered PH-01 through PH-04, inclusive. Those on the forty-second floor of the Resolution Tower are numbered PH-11 through PH-14.

(c) On the eighth, ninth, and tenth floors, there will be seven (7) apartments in the Endeavor Tower and six (6) apartments in the Resolution Tower.

(d) The Type A-1 and B-1 apartments (which occur only on the forty-first floor of each tower) will not have a separate enclosed lanai as indicated in the Preliminary Public Report. The lanai area has been incorporated into the living area of the apartments. Therefore, the net floor area of the Type A-1 and B-1 apartments, as shown in the Preliminary Public Report, has been increased by the number of square feet formerly occupied by the lanais adjacent to such units. Therefore, the gross floor area and net floor area for Type A-1 apartments are both now 1,081.2 square feet and the areas for Type B-1 apartments are now 802.4 square feet.

(e) The stairway at the Diamond Head end of the first floor of the project has been redesignated on said Condominium Map as a common element and the storage room adjacent to the lobby of the Endeavor Tower on the second floor (mall level) of the project has been designated as part of the Commercial Unit.

(f) Certain areas of the Commercial Unit are no longer designated on said Condominium Map for specific purposes (i.e., "Supermarket", "Bank", "Restaurant") and such areas may be used for any commercial purpose, subject to the terms and conditions of the Declaration and By-Laws.

LIMITED COMMON ELEMENTS: The recorded Declaration provides that the parking stalls designated as numbers 1109 and 1110 on said Condominium Map are appurtenant to the two manager's units and are limited common elements for the exclusive use of all of the residential apartments.

BY-LAWS: Under the recorded By-Laws, the owner of the Commercial Unit is empowered to select one (1) rather than two (2) members of the Board of Directors of the Association of Apartment Owners.

INTEREST TO BE CONVEYED TO PURCHASERS: The Commission has been advised that the Condominium Conveyance Documents for all of the units will initially be issued to the Developer, who will thereafter assign all of its right, title, and interest acquired under said documents to the apartment purchasers. Copies of the proposed initial conveyance document from Hawaiian Trust Company, Ltd. and MEPC Properties (Hawaii) Inc. and the instrument of assignment from MEPC Properties (Hawaii) Inc. have been furnished to the Commission.

RESTRICTIONS AS TO USE: The provisions of the By-Laws pertaining to pets have been amended to provide that no live-stock, poultry or other animals shall be allowed except that one small dog or one small cat and other usual household pets in reasonable number may be kept by the owners in their respective apartments, but shall not be kept, bred or used therein for any commercial purpose nor allowed on the common elements except in transit when physically carried or on a short leash.

ALTERATION OF UNITS: Certain restrictions on the types of residential apartments which may be physically joined have been omitted, and the Declaration reflects that the owner of any two adjacent residential units on any floor (except the forty-second floor) which are separated only by a wall may, with the consent of the Trustee, the Board of Directors and any mortgagee, alter or remove all or portions of the intervening wall (whether or not load-bearing) which separates such units if the structural integrity of the project is not thereby affected, and if the finish of the common element then remaining is restored to a condition substantially comparable to that of the common element prior to such alterations. The Declaration also provides that the owner of the Commercial Unit shall have the right, in connection with making alterations and improvements within such unit, to install windows and utility installations in and through the exterior walls surrounding the Commercial Unit, subject to all of the terms and conditions of the Declaration and By-Laws.

ENCUMBRANCES AGAINST TITLE: A preliminary title report dated September 27, 1976, issued by Title Guaranty of Hawaii, Inc. indicates that the encumbrances on the property remain the same as previously reported in the Preliminary Report of April 10, 1975, with the following exception: that certain mortgage described as item 2 below, dated December 6, 1961, filed as Land Court Document No. 282775, made by Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, in favor of American National Insurance Company, is an encumbrance only on Parcel Sixth and does not encumber the other parcels comprising the property of the project.

Said Preliminary Title Report of September 27, 1976 in its entirety reflects the following encumbrances:

1. Real property taxes for the fiscal year July 1, 1976 - June 30, 1977.
2. Mortgage
Mortgagor : Louis Lyman Gowans and Helen Taylor Gowans,
Husband and Wife
Mortgagee : American National Insurance Company,
A Texas Corporation
Dated : December 6, 1961
Filed : Land Court Document No. 282775
Amount : \$800,000.00 affects Parcel Sixth (Lot 32)
besides other land.

By Subordination Agreement dated December 24, 1969, filed as Document No. 493303, American National Insurance Company subordinates said mortgage to the lien of that certain Lease filed as Document No. 491921, as amended.

By instrument dated December 24, 1969, filed as Document No. 493304, the interests of Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, in said Lease Document No. 491921, as amended, were assigned to American National Insurance Company, as additional security to mortgage Document No. 282775.

3. As to Parcel First (Lot 38-A). The terms and conditions contained in that certain unrecorded Lease dated July 30, 1969, entered into by and between Toyoko Ishiguro Lucas, as Lessor, and Trans-Pacific Properties, Inc., a Nevada corporation, as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491911. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687955, and supplemented by instrument dated November 29, 1974, filed as Document No. 705669.

4. As to Parcel Second (Lots 42 and 40):
 - A. Terms, conditions and provisions contained in that certain Declaration of Trust dated July 23, 1979, filed as Document No. 479656; re holding said premises in trust with powers to sell, mortgage, lease, etc.
 - B. The terms and conditions contained in that certain unrecorded Lease dated July 30, 1969, entered into by and between Helen Nahm Choy, a widow, and Herbert Young Cho Choy, as Trustee of the Doo Wook and Helen Nahm Choy Foundation, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491904. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687957 and supplemented by instrument dated November 26, 1974, filed as Document No. 705664.
5. As to Parcel Third (Lot 31-A): The terms and conditions contained in that certain unrecorded Lease dated July 30, 1969, entered into by and between Umematsu Watada and Yasu Nakao Watada, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491906. Said Lease was amended by unrecorded instrument dated June 4, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687956, and supplemented by instrument dated December 5, 1974, filed as Document No. 705670.
6. As to Parcel Fourth (Lot 33-A-1): The terms and conditions contained in that certain unrecorded Lease dated July 30, 1969, entered into by and between Bow Sun Wong and Quon Moi Ching Wong, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491908. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687958, and supplemented by instrument dated November 30, 1974, filed as Document No. 705671.
7. As to Parcel Fifth (Lot 30): The terms and conditions contained in that certain unrecorded Lease dated August 22, 1969, entered into by and between Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which Memorandum Agreement (Lease) is filed as Document No. 491914. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687959, and supplemented by instrument dated November 27, 1974, filed as Document No. 705665.

8. As to Parcel Sixth (Lot 32): The terms and conditions contained in that certain unrecorded Lease dated August 22, 1969, entered into by and between Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491921. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687960. Consent to said Amendment filed as Document No. 705661. Said Lease was supplemented by instrument dated November 27, 1974, filed as Document No. 705666. Said parcel is also subject to the mortgage described in item 2 above.
9. As to Parcel Seventh (Lot 34): The terms and conditions contained in that certain unrecorded Lease dated August 22, 1969, entered into by and between Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491917. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687961, and supplemented by instrument dated November 27, 1974, filed as Document No. 705667.
10. As to Parcel Eighth (Lots 36 and 38-B): The terms and conditions contained in that certain unrecorded Lease dated August 22, 1969, entered into by and between Louis Lyman Gowans and Helen Taylor Gowans, husband and wife, as Lessors, and Trans-Pacific Properties, Inc., as Lessee, of which a Memorandum Agreement (Lease) is filed as Document No. 491919. Said Lease was amended by unrecorded instrument dated June 6, 1974, of which a Memorandum of Amendment of Lease is filed as Document No. 687962, and supplemented by instrument dated November 27, 1974, filed as Document No. 705668.
11. The terms and conditions of that certain Trust Agreement dated June 6, 1974, filed as Document No. 687964, made by Helen Nahm Choy, a widow, and Herbert Young Cho Choy, Trustee of the Doo Wook and Helen Nahm Choy Foundation; Toyoko Ishiguro Lucas, wife of Norman Ululani Lucas, and Alice Hanako Kodama Yokoyama, wife of Irvine Kiyoshi Yokoyama; Louis Lyman Gowans and Helen Taylor Gowans, husband and wife; Umematsu Watada and Yasu Nakao Watada, husband and wife; and Quon Moi Ching Wong, widow; Mainline-MEPC Properties (Hawaii), Inc., a Hawaii corporation, "Settlers", to Hawaiian Trust Company, Limited, a Hawaii corporation, "Trustee". Consent thereto filed as Document No. 705662. Said Trust Agreement was amended by instrument dated November 27, 1974, filed as Document No. 705673, and further amended by instrument dated November 27, 1974, but effective January 13, 1975, filed as Document No. 707915.
12. Mortgage and Security Agreement

Mortgagor	:	MEPC Properties (Hawaii), Inc., a Hawaii corporation
Mortgagee	:	Bank of Hawaii, a Hawaii banking corporation
Dated	:	December 13, 1974

Filed : Land Court Document No. 705674
Amount : \$36,000,000.00 - on the fee simple
interest in and to Lots 37-A-1, 35-A-1 and
29-A-1, and the leasehold interest in
and to Lots 38-A, 42, 40, 31-A, 33-A-1,
30, 32, 34, 36 and 38-B.

NOTE: Land Court Order No. 40110, filed June 28, 1974, sets forth the merger of Trans-Pacific Properties, Inc., a Nevada corporation, with and into Mainline-MEPC Properties (Hawaii), Inc., a Hawaii corporation. The corporate name of Mainline-MEPC Properties (Hawaii), Inc. was changed to MEPC Properties (Hawaii) Inc., by Certificate of Amendment dated October 18, 1974, filed as Document No. 704855.

Subsequent to issuance of said Preliminary Title Report, the Developer reported the recordation of the Declaration, By-Laws and Condominium Map for this project in the Office of the Assistant Registrar of the Land Court. Particulars are as stated on page 2 of this report.

MANAGEMENT OF THE PROJECT: The Developer reports that Hawaiiana Management, Inc. has been appointed as the initial Managing Agent of the project, subject to the terms and conditions of Chapter 514, Hawaii Revised Statutes, as amended. A copy of the executed contract with said Managing Agent has been furnished to the Commission.

STATUS OF PROJECT: The developer has furnished the Commission a copy of a temporary Certificate of Occupancy for the project which was issued the developer by the Building Department of the City and County on October 29, 1976.

SPECIAL NOTE: The Developer reports that certain other amendments have been made to the drafts of the condominium documents including, without limitation, the following:

1. Declaration of Horizontal Property Regime - Paragraph 4(a) (as to the method by which the areas of the apartments have been computed; Paragraph 6(d) (as to the numbering of parking stalls); Paragraph 8 (giving the Owner of the Commercial Unit an easement to use and maintain vents and utility installations located in or on the common elements or limited common elements; Paragraph 11 (as to alterations within the Commercial Unit); and Paragraph 12 (as to the subdivision of the Commercial Unit, including the method by which a common interest shall be allocated to such subdivided units).

2. By-Laws - Various modifications in order to comply with the recent amendments to Chapter 514, Hawaii Revised Statutes; Section 1D of Article IV (as to the treatment of assessments received in excess of actual expenditures) and Section 2 of Article VI (as to insurance coverage and the restoration of damage or destruction).

3. Condominium Conveyance Document - Paragraph VI.1. of the Apartment Owner's Covenants (as to the periods of fixed rental); Paragraph A of the Mutual Covenants (as to the methods for determining renegotiated rentals; Paragraph B of the Mutual Covenants (as to the rights and duties of Apartment

Owners as members of the Association of Owners); and Paragraph H of the Mutual Covenants (as to the Lessors' rights and remedies in the event of a default.

The documents, as amended, are available for inspection at the Real Estate Commission and the office of the Developer.

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 March 3, 1975, and information subsequently filed as of November 17, 1976.

This is a FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT, which is made a part of REGISTRATION NO. 758, filed with the Commission on March 3, 1975. This report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles shall be white in color.



AH KAU YOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution: Department of Taxation
Bureau of Conveyances
Planning Department, City and County of Honolulu
Federal Housing Administration
Escrow Agent

Registration No. 758
November 19, 1976