

# 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  
MALUNA KAI ESTATES  
Rural Route 1  
Alaeloa, Maui, Hawaii

REGISTRATION NO. 797

### 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: March 1, 1977

Expires: April 1, 1978

#### 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 JULY 28, 1975, AND INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 11, 1977. 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. Since the issuance of the Commission's Preliminary Public Report on Registration No. 797 on September 26, 1975, the Developer had requested and the Commission granted an extension of said Preliminary Report until April 26, 1977. Also, the Developer has prepared and forwarded additional information to be filed with the July 28, 1975 submittal. This Final Public Report is made a part of registration on MALUNA KAI Condominium Project. The Developer has the responsibility of placing a true copy of both this Final Public Report (white paper stock) and the Preliminary Public Report (yellow paper stock) in the hands of all purchasers. Securing a signed copy of the Receipt for both Horizontal Property Regime Public Reports from each purchaser is also the responsibility of the Developer.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this condominium project and the issuance of this Final Public Report.

The Developer reports that the basic documents (Declaration of Horizontal Property Regime, with By-Laws of the Association of Apartment Owners attached, and a copy of the approved Floor Plans have been recorded in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime, executed October 22, 1976, with By-Laws attached, was recorded in the Bureau of Conveyances of the State of Hawaii on January 6, 1977 in Liber 11942 Page 41. The approved Floor Plans showing the layout and location of apartments have been designated Condominium File Plan No. 485.

3. No advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.

4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.

5. This Final Public Report expires thirteen (13) months from the date of issuance, March 1, 1977, unless a supplementary report is published or the Commission, upon review of this registration, issues an order extending the effective period of this report.

The information disclosed in the Commission's Preliminary Report of September 26, 1975 in the topical headings hereinafter set forth has been amended as follows. Information disclosed in the remaining topical headings has not been disturbed.

DESCRIPTION: The said Declaration of Horizontal Property Regime reflects that the project consists of nine single family residences, contained in 3 two-story buildings and 6 split-level buildings constructed principally of wood, metal, plaster and concrete.

- (a) Apartment No. 1 is located on Lot No. 1.
- (b) Apartment No. 2 is located on Lot No. 2.
- (c) Apartment No. 3 is located on Lot No. 3.
- (d) Apartment No. 4 is located on Lot No. 4.
- (e) Apartment No. 5 is located on Lot No. 5.
- (f) Apartment No. 6 is located on Lot No. 6.
- (g) Apartment No. 7 is located on Lot No. 7.
- (h) Apartment No. 8 is located on Lot No. 8.
- (i) Apartment No. 9 is located on Lot No. 9.

According to the Declaration and Condominium File Plan submitted by the Developer, each apartment contains the following number of rooms and approximate floor area:

APARTMENT NO. 1-6 consist of 7 rooms including a combination living-dining room and Kitchen on the upper level; two bedrooms and two bathrooms on the mid-level; and den and Laundry room on the lower level. The apartments are split level and contain a covered floor area of approximately 1750 S.F. plus lanais and semi-enclosed car port.

APARTMENT NO. 7-9 consist of 8 rooms including a combination living-dining room, Kitchen and halfbath on the upper level and two bedrooms, two baths and a den on the lower level. These apartments have two stories and contain a covered floor area of approximately 1750 S.F. plus lanais and semi-enclosed carport.

Each apartment has immediate access to the grounds of the project.

The respective apartments shall not be deemed to include any pipes, wires, conduits, or other utility or service lines running through such apartments which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions within its perimeter walls, all walls, floors, ceilings and roofs, doors and door frames, windows and window frames, the appurtenant lanai(s) (if applicable), the appurtenant terrace(s) (if applicable), the appurtenant entry (if applicable), the appurtenant deck(s) (if applicable), the appurtenant court yard(s) (if applicable), the appurtenant motor court (if applicable), the appurtenant garden(s) (if applicable) and all fixtures originally installed therein.

NOTE: The said Declaration provides that the owner of any apartment shall have the right to alter, at any time and from time to time, as hereinafter set forth, the plans of his apartment solely by an amendment to the Declaration, such amendment to be executed solely by the apartment owner of such apartment and two officers of the Association who shall execute said amendment upon approval of such altered plans by the Board as hereinafter set forth, provided that such amendment shall be effective only upon the recording of the same in the Bureau of Conveyances of the State of Hawaii. Such amendment shall set forth the number of the apartment involved, the description thereof as so altered in accordance with Section 514-11(3) of the Hawaii Revised Statutes, and shall include a complete set of floor plans of such apartment as so altered certified as built by a registered architect or professional engineer. Such amendment shall also include the consent thereto of the holder of any recorded mortgage of the apartment involved. Such alteration of the plans of an apartment shall be subject to the prior approval thereof by the Board and by the appropriate agencies of the State of Hawaii and the County of Maui, provided, however, such consent by the Board shall not be withheld if the plans therefor have been approved by the Architectural Control Committee of the Association of Apartment Owners. Such alteration of the plans of an apartment

may decrease or increase the size of such apartment, provided that the same shall not extend or place the apartment outside of the limits of the Lot upon which the apartment is built as designated on said condominium file plan; and provided, further, that no such alteration of the plans of an apartment shall be allowed hereunder without the unanimous consent of the Board if the same increases the height of such apartment. Before commencing or permitting construction on any such alteration of an apartment, the apartment owner thereof shall obtain and deposit with the Secretary a bond or certificate thereof, naming all apartment owners as dual obligees, in a penal sum of not less than one hundred percent (100%) of the cost of such construction as the same may change from time to time and with a corporate surety authorized to do business in Hawaii, guaranteeing performance of such construction free and clear of all mechanics' and materialmen's liens arising under Section 514-9 of the Hawaii Revised Statutes.

COMMON ELEMENTS:

The last paragraph of the Preliminary Public Report has been deleted and the following substituted in lieu thereof:

"Common area expenses shall be shared equally by owners of the nine residences."

LIMITED COMMON ELEMENTS: The only limited common elements in the Project are the Lots upon which each residence is situated and the driveway and pedestrian walkway appurtenant to each residence. Each residence shall have an exclusive easement for the use of its respective limited common elements and shall be charged with expenses relating thereto.

OWNERSHIP OF TITLE: A Preliminary Report of Title issued on January 19, 1977, by Hawaii Escrow & Title, Inc. certifies that title to the property is held by Arnold Owen Jeffs and Violet Freda Jeffs, as tenants by the entirety.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Report of January 19, 1977, certifies that the records reveal no liens or encumbrances against said title, except the following:

- (a) Mortgage dated October 30, 1976, recorded in Liber 11804, Page 423, in favor of Yorkshire Trust Company in Trust for Carson Estates Limited, to secure repayment of the sum of \$250,000.00
- (b) Reservations in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent No. 1663;

- (c) For any taxes, assessments or charges that may be due and owing, references is made to the Office of the Tax Assessor, Second Division.
- (d) Said Declaration of Horizontal Property Regimes, By-Laws and Condominium Map.
- (e) Assessments or charges levied by Municipal or Governmental Authority or imposed by any other lawfully constituted body authorized by statute to assess, levy and collect the same, if any.

NOTE: The Developer advises that it plans to grant an easement for utility purposes, in favor of HAWAIIAN ELECTRIC COMPANY, INC. and HAWAIIAN TELEPHONE COMPANY, that will encumber the lands of the project.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement covering all of the apartments in the project, dated November 15, 1976, between Developer and HAWAII ESCROW & TITLE, INC., as Escrow, have been filed with the Commission. On examination, the executed Escrow Agreements filed with the Commission are found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly Sections 514-36 through 514-40, H.R.S. Among other provisions, the executed Escrow Agreements state that a purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said purchaser, without interest, and less Escrow's \$15.00 cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

1. Escrow receives a written request from Developer to return to purchaser the funds of such purchaser then held under the Escrow Agreement by Escrow; or

2. If a purchaser's funds were obtained prior to the issuance of this Final Public Report and if there is any change in the condominium 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 written approval or acceptance of the specific change; or

3. If a purchaser's funds were obtained prior to the issuance of this Final Public Report and the request is prior to the time this Final Public Report is issued; or

4. If this Final Public Report is not issued within one (1) year of the date of issuance of the Preliminary Public Report.

It is incumbent of the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the Sales Agreement since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's funds. The specimen sales agreement specifically provides that the purchaser approve said Escrow Agreement and assume the benefits and obligations therein provided. Purchasers and prospective purchasers are advised to read with care the provisions of the sales agreement.

The Sales Agreement provides, in part:

- (1) Purchaser agrees to begin construction of the apartment within two (2) months from the Date of Closing and to fully and completely construct the apartment within eight (8) months from Date of Closing;
- (2) Prior to commencing or permitting construction of the apartment, purchaser shall obtain and maintain at all times during the period of construction general liability insurance including builder's risk coverage;
- (3) Prior to the commencement of construction of the apartment, purchaser shall obtain Developer's approval of the final forms of the Construction Contract, plans and specifications and the schedule of construction, and during the construction of any modifications thereof;
- (4) Purchaser agrees that Developer shall have the right to control the purchaser's right to tie-in to the common utilities of the project and the contractor's access to the project and the apartment site;
- (5) Purchaser agrees that Developer shall have the right to monitor the course of construction to ensure that the apartment is built within the eight (8) month period;
- (6) In the event purchaser fails to fully and completely construct the apartment within eight (8) months from the Date of Closing, purchaser shall pay to developer an additional sum equal to the total amount of funds held by escrow (paid under paragraphs C-1, C-2 and C-3 of said Sales Agreement) multiplied by twelve percent (12%) per annum for and during the period from the end of said eight month period to and including the day the apartment is fully and completely constructed;
- (7) Purchaser understands and agrees that purchaser shall in no event actually occupy the premises prior to the issuance of a Certificate of Occupancy for the apartment, full compliance by the purchaser with all terms of Sales Agreement and until the entire purchaser price is disbursed to Developer by escrow;
- (8) Purchaser agrees that until developer has closed out the sale of all apartments in the project or until December 31, 1977, whichever shall first occur, purchaser will not enter into an agreement with any owner, purchaser or lessee or another apartment in the project and/or any third party under which purchaser agrees to share expenses and/or rentals of apartments in the project.

MANAGEMENT AND OPERATIONS: The Declaration states that the administration of the Horizontal Property Regime shall be vested in the Association of Apartment Owners, in accordance with the By-Laws of the Association. The By-Laws provide that the Board of Directors, to be elected by the Association, shall at all times manage and operate the project and have such powers and duties as may be necessary and proper therefor. The powers of the Board of Directors may not be delegated, and no manager or managing agent may be employed for the project without the unanimous approval of the residence owners. As owner of all apartment units, the developer has entered into a six (6) month Management Agreement with Arnold O. Jeffs, subject to ratification of the Agreement by the Association. The By-Laws also call for the formation of an architectural committee composed of three members to be elected by the owners of the residences provided that up to December 31, 1977, the three members of the Committee shall be Arnold O. Jeffs, Violet F. Jeffs and J. G. Vannoy, which must approve the plans and specifications for the completion of each residence.

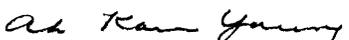
STATUS OF THE PROJECT: The developer advises that: 1) construction of Residence #5 is complete, 2) foundation work on the other 8 units has commenced but the units are not yet complete, and 3) all common elements, including the pool, pool pavilion, tennis courts, grading, roads, sewer system, water lines, underground utilities and site work have been completed. The developer has provided the Commission with a Notice of Completion to evidence completion of the Common elements and construction contracts and bonds for the 8 unfinished units. These contracts and bonds will be assigned to purchasers, and though they are due to expire on March 1, 1977, the developer believes that obtaining an extension should not prove a problem. The estimated completion date for the entire project is December 31, 1977.

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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 July 28, 1975 and information subsequently filed as of February 11, 1977.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 797 filed with the Commission on July 28, 1975.

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.

  
AH KAU YOUNG, CHAIRMAN  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:  
Department of Taxation  
Bureau of Conveyances  
Planning Department, County of Maui  
Federal Housing Administration  
Escrow Agent

March 1, 1977  
Registration No. 797