

# 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  
IAO GARDENS  
Vineyard Street at Muliwai Drive  
Wailuku, Island & County of Maui  
State of Hawaii

REGISTRATION NO. 823

### 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: April 27, 1976  
Expires: May 27, 1977

#### SPECIAL ATTENTION

A comprehensive reading by the prospective purchaser is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE NOTICE OF INTENTION TO ESTABLISH A HORIZONTAL PROPERTY REGIME SUBMITTED ON NOVEMBER 13, 1975 AND INFORMATION SUBSEQUENTLY SUBMITTED AS OF APRIL 23, 1976. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES, AS AMENDED.

1. "IAO GARDENS" is a proposed fee simple condominium consisting of 39 residential apartments with 49 parking stalls, forty-four of which are located in the main building and five of which are located in an open parking area adjacent thereto. Purchasers of apartments in the project will receive a condominium conveyance document conveying a fee simple interest in the apartment unit and its appurtenant common elements.

2. The Developer of the project has submitted to the Commission all documents and materials deemed necessary by the Commission for the registration of this proposed condominium and the issuance of this Preliminary Public Report.
3. No advertising or promotional matter has been submitted to the Commission.
4. The basic documents of the project (the Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and the Floor Plan) have not been filed at the Bureau of Conveyances of the State of Hawaii.
5. Prospective purchasers of apartment units in the project are advised to acquaint themselves with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations promulgated thereunder, which relate to Horizontal Property Regimes.
6. This Preliminary Public Report expires automatically thirteen (13) months after the date of issuance, April 27, 1976, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this Report.
7. This Preliminary Public Report is made a part of the registration in Iao Gardens condominium report. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers or prospective purchasers. Securing a signed copy of the receipt for this Preliminary Public Report, from each purchaser or prospective purchaser is also the responsibility of the Developer.

NAME OF PROJECT: IAO GARDENS

ADDRESS: The land (approximately 35,361 square feet) committed to the project is located at the intersection of Vineyard Street and Muliwai Drive in the City of Wailuku, Island and County of Maui, State of Hawaii.

TAX MAP KEY: Second Division 3/4/16/7, 64, 70, 71, 72, 73 and 74.

ZONING: A-2 Multiple-Family Apartment District.

DEVELOPER: Hale Kahawai Associates, a Hawaii joint venture partnership whose principal place of business is located at 761 Bishop Street, Honolulu, Hawaii 96813, whose mailing address is P.O. Box 2578, Honolulu, Hawaii 96803, and whose business telephone number is 536-0091. The principals of Hale Kahawai Associates are John W. Godfrey, R. W. Gibson, and Frank T. Inouye. R. W. Gibson is the Managing Partner.

ATTORNEY REPRESENTING DEVELOPER: R. W. Gibson, 761 Bishop Street  
Honolulu, Hawaii, 96813. Mail:  
P.O. Box 2578, Honolulu, Hawaii, 96803. Telephone: 536-0091.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and other documents filed with the Commission show that:

1. The project consists of 39 apartment units contained in one three-story, plus full basement reinforced concrete and frame building located on the parcel of land containing 35,361 square feet. The basement will contain 44 parking stalls, one assigned to each unit, and individual unit storage area lockers. One elevator will serve the basement and the three residential floors. Each floor contains 13 units numbered consecutively from 1 through 13 and a numerical prefix indicating the floor upon which the apartment is located.
2. Of the 39 apartments in the project, 27 are one-bedroom, one and one-half bath units, 6 are one-bedroom, one-bath units, and 6 are two-bedroom, two-bath units. Said apartments are of six types described as follows:

Apartment Type	No. of		Apartment Floor Area			Numbering of Apartment Units of this Apartment Type
	Bed Rms	Bath	Living Area	Lanai Area	Total Area	
A	1	1-1/2	778	62	840	101,102,103,104,105,106,107,108,201,202,203,204,205,206,207,208,301,302,303,304,305,306,307,308
B	1	1-1/2	778	62	840	109,209,309
C	1	1	696	50	746	110,111,210,310
D	2	2	846	50	896	112,212,312
E	2	2	914	50	964	113,213,313
F	1	1	790	50	840	211,311

3. All apartments have a living room, dining area, kitchen, 1, 1-1/2, or 2 baths as the case may be, 1 or 2 bedrooms, as the case may be, an entry way, and a lanai with access being provided by sliding glass doors. All apartments are of one level construction.
4. Each apartment is furnished with the following: 1 tabletop range with oven and hood; 1 hot water heater; 1 garbage disposal; 1 washer; 1 dryer; (or combined unit); 1 dishwasher; 1 frostfree, 2-door refrigerator; and carpets and drapes except in kitchen and bath(s) where floor covering will be composition sheet vinyl. All units will contain cabinetry in kitchen and bath(s); formica counter tops in kitchen and cultured marble in bath(s).
5. A total of 49 parking stalls will be provided. Forty-four of these stalls will be in the basement structure and 39 will be assigned one to each apartment. Ten stalls will be available for purchase as additional parking spaces by individual condominium unit purchasers. Unsold stalls will be made available to the Association at the project completion. The basement will

also contain 39 storage locker compartments capable of being locked and will be assigned one to each condominium apartment unit.

6. The respective apartments shall not be deemed to include the exterior surfaces of the perimeter walls, the party walls, the attic area and roof, the area below the floor, and the areas wherein any pipes, shafts, wires, conduits or other utility or service lines run through such apartments which are utilized for or serve more than one apartment, the same being deemed common elements. Each apartment shall be deemed to include the adjacent lanai and all interior walls which are not party walls, the surface of floors and ceilings, and all fixtures and appurtenances originally installed therein.

COMMON ELEMENTS: The common elements of the project include the limited common elements hereinafter described and all other portions of the land and improvements other than the apartments. Said common elements shall specifically include, but not necessarily be limited to the following:

- a) The land in fee simple;
- b) All foundations, floor slabs, girders, columns, beams, supports, unfinished perimeter and load bearing walls, chases, entries and roofs;
- c) All yards, grounds, landscaping and other recreational facilities;
- d) All parking areas; except those assigned or otherwise acquired by the owners or occupants of the individual condominium apartment units and for which purposes hereof shall be deemed to be limited common elements; and used for access for individual condominium apartment units, the public streets, or the parking areas;
- e) All ducts, electrical equipment, central water heating system, if any, wiring, pipes, and other central and appurtenant transmission facilities and installations over, under or across the project which serve more than one apartment for such services as power, light, water, gas, sewer, telephone and radio and television signal distribution systems;
- f) All refuse facilities; mailboxes and related appurtenances; water sprinkler systems; fire control and warning devices; security systems except that portion thereof installed in individual apartments and any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called "Limited Common Elements", are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easement for the use of such limited common elements as follows:

- a) The basement parking stall assigned to the respective apartment and any other additional parking stall purchased by the owner of such apartment;

- b) The basement storage locker assigned to the respective apartment;
- c) Any planter area located along the outboard balcony adjacent to the unit and situate immediately outboard of such respective units.

INTEREST TO BE CONVEYED PURCHASER: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project herein called the "common interest" and the same proportionate share in all common profits and the expense of the project and for all other purposes, including voting, as follows:

Type Apt.	Sq. Ft.	% Common Interest in Common Elements Each Apartment	No. Apts.	Total Area Each Type Sq. Ft.	% Common Interest Per Type- Total
A	840	2.55133	24	20760	61.23192
B	840	2.55133	3	2520	7.65399
C	746	2.23358	4	2984	8.93432
D	896	2.88085	3	2688	8.64255
E	964	2.92796	3	2892	8.78388
F	840	2.37667	2	1680	4.75334
			39	32924	100.00000

USE: The proposed Declaration of Horizontal Property Regime provides that the apartments shall be occupied and used only as permanent single family residences by the respective owners thereof, their tenants, licensees, families, domestic servants and social guests and for no other purposes. Provided, however, that the apartment owners shall have the absolute right to rent or lease such apartment subject to the provisions of the Declaration.

OWNERSHIP TO TITLE: The Notice of Intention states that legal title to the land to be submitted to the Horizontal Regime is vested in AFOON LIPUNI KAMAUOHA, widow. A Preliminary Report of the status of title issued by Hawaii Escrow & Title, Inc., licensed abstractor, dated April 15, 1976, confirms the foregoing statement.

ENCUMBRANCES AGAINST TITLE: The aforesaid Preliminary Report certifies that the title to the property is subject to the following encumbrances:

1. AS TO PARCEL FIRST - A Road Easement in favor of Lot 6.
2. AS TO PARCEL SECOND -

(a) As to Portion of Lot 7: Restrictive conditions as contained in that certain Deed dated March 14, 1932 and recorded March 17, 1932 in Liber 1154, Page 189, to-wit:

"That the Grantee shall not at any time hereafter on that portion of the above described premises immediately in front of the portion of said Lot 7 remaining to the Grantor, erect or permit any building or structure whatsoever to be erected which shall arise to a height higher than the surface of the roadway lying between the two portions of said Lot 7; Further, that the Grantee will not at any time make any use of the demised property or any part thereof which may constitute a nuisance or injure the value of any of the neighboring lots; that in the event of a violation of either of these conditions this instrument shall become null and void, and the Grantee shall forfeit all right or title to said property and all interest shall without notice revert to and revest in the Grantor, who shall thereupon have the right of immediate re-entry upon the same."

(b) Mortgage in favor of First National Bank of Hawaii (now known as First Hawaiian Bank ) in the amount of \$7,500.00, dated July 10, 1964 and recorded July 14, 1964 in Liber 4791, Page 569.

3. AS TO PARCEL THIRD - The water rights in favor of The Wailuku Sugar Company as reserved in Deed dated March 30, 1935 and recorded March 30, 1935 in Liber 1273, Page 284.

4. AS TO ALL PARCELS -

(a) For any Taxes that may be due and owing, reference is made to the office of the Tax Assessor, Second Division.

(b) Reservation unto the State of Hawaii of all mineral and metallic mines of every description.

(c) Agreement of Sale in favor of Wilfred M. Motokane, Jr., Husband of Jean S. Motokane, Craig A. Kobayashi, single, Warren M. F. Ho, Husband of Anita F. K. Ho, Manuel Moniz, Jr., Husband of Constance Moniz, Donald S. Tamashiro, Husband of Sanae Tamashiro, Nelda J. Neuffer, Wife of George M. Neuffer, and Fuku Construction, Inc., as Tenants in Common, dated October 1, 1973 and recorded October 2, 1973 in Liber 9526, Page 249.

(d) Agreement executed by and between Wilfred M. Motokane, Jr., et al, doing business as Wailuku Joint Venture, by and through their Managing Agent, Wilfred M. Motokane, Jr., and Hale Kahawai Associates, a Hawaii registered joint venture, dated April 14, 1976 and recorded April 19, 1976 in Liber 11354, Page 584.

PURCHASE MONEY HANDLING: Hawaii Escrow & Title, Inc., a Hawaii corporation, has been designated as Escrow Agent for the project pursuant to an Escrow Agreement between the Developer and said Agent, dated November 10, 1975. The Commission finds that said Agreement and specimen sales contract are in consonance with Chapter 514, Hawaii Revised Statutes, and particularly Sections 514-35 through 40, inclusive. The Escrow Agreement provides, inter alia that:

1. All monies paid or payable by purchaser under any Sales Contract shall be remitted or payable to Escrow Agent.
2. All monies received by Escrow Agent may be deposited in a savings account, and all interest earned therefrom shall belong to and inure to the benefit of the Developer.
3. A purchaser shall be entitled to a refund of his funds without interest less cancellation fee and costs incurred if he requests the same in writing and any one of the following events has occurred:
  - (a) The Seller has requested Escrow Agent in writing to return the funds of purchaser then being held by Escrow Agent; or
  - (b) Purchaser's funds were obtained prior to the issuance of a Final Public Report on the project, and (i) said Report differs in any material respect from the Preliminary Public Report, or (ii) there is a change in the condominium building plans subsequent to the execution of the purchaser's Sales Contract, requiring the approval of a county officer having jurisdiction over the issuance of permits for construction of buildings, unless purchaser has given written approval or acceptance of the change; or
  - (c) The Final Public Report is not issued within one (1) year from the date of the issuance of the Preliminary Public Report, unless the purchaser consents to an extension of time for the issuance thereof.

The Commission advises prospective purchasers to read and understand the Escrow Agreement before executing the Sales Contract.

SALES CONTRACT: The form of Sales Contract to be used as filed with the Commission provides that the Sales Contract shall not be binding upon the Developer, as Seller, or the purchaser until (a) a true copy of the Commission's Final Public Report for the project with all supplementary reports attached thereto (if any have been issued) has been given to the apartment purchaser, (b) the apartment purchaser has executed a receipt for or otherwise acknowledged receipt of the aforesaid report(s), and (c) 48 hours have elapsed since the apartment purchaser executed such receipt or acknowledged receipt of such report(s).

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

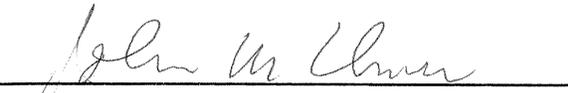
FINANCING OF PROJECT: The Developer has advised the Commission that as of date hereof commitment for construction (interim financing) and for take-out (permanent financing) for the project have been issued through and accepted by Developer. The lender in each instance is Western Savings & Loan Company, a Utah corporation, whose address is 41 East South, Salt Lake City, Utah, 84111.

MANAGEMENT AND OPERATION: The proposed By-Laws of the Association of Apartment Owners provide that the Developers may employ a management agent or a resident manager, as the case may be, to manage and control the project during its first year thereof. Thereafter the selection of the managing agent or resident manager, or either, shall be at the discretion of the Board of Directors. As of this date the Developer has not selected the managing agent or a resident manager but proposes to do so prior to completion of the project.

STATUS OF PROJECT: The Developer has submitted its estimated cost of completing the project and its plan for financing the same. The Developer has also advised the Commission that it proposes to complete construction on or about November, 1976.

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Purchasers or prospective purchasers should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted November 13, 1975 and information subsequently filed as of April 23, 1976.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES CONDOMINIUM PUBLIC REPORT which is made a part of REGISTRATION NO. 823, filed with the Commission on November 13, 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 yellow.

  
MEMBER, REAL ESTATE COMMISSION  
STATE OF HAWAII

DISTRIBUTION:

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PLANNING DEPARTMENT, COUNTY OF MAUI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

REGISTRATION NO. 823

April 27, 1976