

# 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  
MAALAEA YACHT MARINA  
Hauoli Street  
Maalaea, Maui, Hawaii

REGISTRATION NO. 860

### 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: June 8, 1977

Expires: July 8, 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 MAY 26, 1976, AND INFORMATION SUBSEQUENTLY FILED ON JUNE 6, 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. MAALAEA YACHT MARINA is a proposed leasehold condominium project consisting of one (1) four (4) story residential structure, containing forty-five (45) dwelling units, 59 parking stalls, a manager's apartment, a recreation room, a swimming pool, and an office unit.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.
4. The Developer has submitted the construction plans showing typical floor plan for the one-bedroom, and two-bedroom apartments and also a plot plan of the project.
5. No advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations, which relate to Horizontal Property Regime.
7. This Preliminary Public Report is made a part of the registration of MAALAEA YACHT MARINA condominium project. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt for this report.
8. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, June 8, 1977, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of the report.

NAME OF PROJECT: MAALAEA YACHT MARINA

LOCATION: The 55,250 square feet, more or less, of land submitted to the regime, is located on the beach on the southerly side of Hauoli Street, Maalaea, Maui, Hawaii.

TAX KEY: Second Division 3-8-14:24.

ZONING: Light Industry M-1 District

DEVELOPER: DAVID P. TING AND SONS, INC., is a Hawaii corporation, whose principal place of business and post office address is 1744 E. Kaahumanu Avenue, Wailuku, Maui, Hawaii 96793; Telephone No. 244-5103. Said corporation was incorporated by the Department of Regulatory Agencies of the State of Hawaii on December 29, 1971. The officers and directors are:

<u>Name</u>	<u>Office</u>	<u>Address</u>
DUANE PAUL TING	President and Director	168 Molokai Akau Kahului, Maui Hawaii 96732
DAVID P. TING, JR.	Vice President and Director	321 Manini Place Kihei, Maui Hawaii 96753
RONALD S. UYESONO	Secretary and Director	168 Molokai Akau Kahului, Maui Hawaii 96732
DENNIS P. TING	Treasurer and Director	230 Oio Place Kihei, Maui Hawaii 96753

ATTORNEY REPRESENTING DEVELOPER: UEOKA & LUNA (Attn: Mr. B. Martin Luna), 2103 Wells Street, Wailuku, Maui, Hawaii. Telephone: 244-7914.

DESCRIPTION: The improvements to be constructed on the land consist of one (1) four-story residential building together with parking facilities, swimming pool, an office unit and manager's apartment, and indoor recreation room. The residential building will contain a total of twenty-five (25) 1-bedroom and twenty (20) 2-bedroom apartment units. Said building will be constructed on concrete slabs on the ground floor, including the ground floor lanai and remaining parts of the building will be hollow tile blocks with the roof consisting of concrete tile. The description, including the location, apartment number and approximate area and other pertinent data relative to the respective apartments are as follows:

- (a) Apartments numbered 101 through 104, inclusive, 106 through 110, inclusive, are located on the first floor; apartments 201 through 212, inclusive, are located on the second floor; apartments 301 through 312, inclusive, are located on the third floor; and apartments 401 through 412, inclusive, are located on the fourth floor. The office unit is located between apartments 104 and 106, together with a common area passage way.

The manager's apartment and recreation room are located below apartment Nos. 212 and 211, respectively.

- (b) The apartments are constructed according to five (5) different Floor Plans, designated as A, A1, B, C and D on said Plans and each contains the number of rooms and the approximate floor area, according to its respective floor plan, as follows:

- (1) Floor Plan A: Apartments 106 through 109, 206 through 209, 306 through 309, and 406 through 409, inclusive, are constructed according to Floor Plan A and consist of two bedrooms, a combined living room and dining area, kitchen, entry hall, two bathrooms and a lanai, and contain a total area of approximately 987 square feet, including the lanai.

- (2) Floor Plan A-1: Apartments 110, 210, 310 and 410 are constructed according to Floor Plan A-1 and consist of two bedrooms, two bathrooms, a kitchen, entry hall, a combined living room and dining area, and a lanai, and contain a total area of approximately 1067 square feet, including the lanai.
  - (3) Floor Plan B: Apartments 101 through 104, inclusive, 201 through 204, inclusive, 211, 301 through 304, inclusive, 311, and 401 through 404, inclusive, and 411 are constructed according to Floor Plan B and consist of one bedroom, one bathroom, a combined living room and dining area, kitchen, entry hall and a lanai, and contain a total area of approximately 693 square feet, including the lanai.
  - (4) Floor Plan C: Apartments 205, 305 and 405 are constructed according to Floor Plan C and consist of one bedroom, one bathroom, a combined living room and dining area, kitchen, entry hall and a lanai, and contain a total area of approximately 700 square feet, including the lanai.
  - (5) Floor Plan D: Apartments 212, 312 and 412 are constructed according to Floor Plan D and consist of one bedroom, one bathroom, a combined living room and dining area, kitchen, entry hall and a lanai, and contain a total area of approximately 874 square feet, including the lanai.
- (c) The apartments are numbered and located in the manner shown on the proposed Condominium File Plan to be recorded in the Bureau of Conveyances of the State of Hawaii.
  - (d) Each apartment has access to an exterior corridor which leads to a stairway, elevator, or to the grounds of the Project.

Each of the apartments on the ground floor will have access to a concrete walkway which is a common element, and each of the apartments on the second floor will have access to a balcony or hallway, which leads to a stairway for access to the ground floor. The balcony, hallway and stairway are portions of the common elements.

The respective apartment shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, the inner decorated or finished surfaces of all walls, floors and ceilings, doors and door frames, windows and window frames, the lanai air space (if any) and all fixtures originally installed therein.

OFFICE UNIT: The office unit on the ground floor is a separate unit containing office space, storage, and restrooms. The office unit will be a part of the common elements and the purchasers shall receive a specified interest therein.

MANAGER'S APARTMENT: A unit consisting of two bedrooms, two bathrooms, a kitchen and combined living room and dining area located on the first floor, adjacent to the recreation room, shall be set aside for the use of the resident manager, and it shall be a part of the common elements.

COMMON ELEMENTS: The proposed Declaration states that the common elements shall include, but are not limited to, the following: (a) Undivided leasehold interest in the land; (b) All foundations, floor slabs, columns, beams, unfinished perimeter supports, party and load bearing walls, roofs, chases, stair wells and stairs, walkways, entrances and exits of said building; (c) The recreation room and all recreation areas; (d) All yards, grounds, landscaping and refuse areas and trash chutes; (e) All driveway and parking areas and stalls for 59 cars; (f) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, gas, water, sewer, telephone and television signal distribution; (g) Swimming pool and swimming pool area; (h) Office unit; (i) Elevator, elevator lobby, first floor passage, restrooms beside the office and sewage treatment plant; (j) manager's apartment unit; (k) Janitor, laundry and storage areas as designated on condominium map; (l) Any and all other devices or installations upon the land described, existing for or rationally of common use to all the owners of apartments within the Project.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that portions of the common elements are set aside and designated as limited common elements. The limited common elements are each entry hallway, all exterior doors and windows adjoining and serving an apartment or apartments appurtenant to and for the exclusive use of such apartment or apartments which it serves.

INTEREST TO BE CONVEYED PURCHASER: The Developer proposes to convey apartments by way of a Condominium Conveyance Document which purports to convey a fee interest in an apartment and a specified undivided interest in and to the common elements of the apartment building, together with a specified undivided leasehold interest in and to the land submitted to the Horizontal Property Regime. The Condominium Conveyance Document specifically provides that no assignment, mortgage or sublease may be made of the leasehold interest in the land separate and apart from a transfer of the apartment with which the Condominium Conveyance Document was issued.

Under the provisions of the proposed Declaration, the undivided interest in the common elements ("common interest") appertaining to each of the respective apartments and the undivided interests to be demised under the Condominium Conveyance Document to each of the respective apartment purchasers are as follows:

<u>Unit Type</u>	<u>Apartment No.</u>	<u>Common Interest Undivided Interest</u>	
		<u>Each</u>	<u>Total</u>
B	101-104, 201-204, 211, 301-304, 311, 401-404, 411	1.8261%	34.6959%
A	106-109, 206-209, 306-309, 406-409	2.6010%	41.6160%
C	205, 305, 405	1.8443%	5.5329%
A-1	110, 210, 310 410	2.8117%	11.2468%
D	212, 312, 412	2.3028%	<u>6.9084%</u>
			100.0000%

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 purpose for which the apartments are intended and restricted as to use is residential by the unit owners, their tenants, families, domestic servants and personal guests. The apartments may not be used for any other purpose without the consent of the Board of Directors of the Association of Apartment Owners.

OWNERSHIP OF TITLE: A preliminary title report prepared by Title Guaranty of Hawaii, Incorporated, dated March 23, 1977, certifies that the fee simple title to the land is vested in said David P. Ting and Sons, Inc., a Hawaii corporation, by Deed dated March 16, 1976, and recorded in Liber 11353, Page 107.

ENCUMBRANCES AGAINST TITLE: Said preliminary title report as of March 23, 1977, certifies that the records reveal no liens or encumbrances against said title, save and except:

- (1) For taxes that are due and owing, reference is made to the Office of the Tax Assessor, Second Division,
- (2) The reservation in favor of the State of Hawaii of all mineral and metallic mines,
- (3) Location of the seaward boundary in accordance with the law of the State of Hawaii,
- (4) A perpetual easement 20 feet in width in favor of the County of Maui for ingress and egress to and along existing natural drainage ditch and 10 feet on each side of the common boundary between Lots 4 and 5, as shown on map entitled "MAALAEA BEACH LOTS", dated March 15, 1951, and on file in the Office of East Maui Irrigation Company, Limited, and

- (5) Grant of littoral rights in favor of the State of Hawaii, its successors, assigns, licensees and permittees, appurtenant to the lands described as Parcel D of Maalaea Bay Front (Lot 3, Maalaea Beach Lots) and Parcel E of Maalaea Bay Front (Lot 4, Maalaea Beach Lots), by deed of Maui Fisheries & Marine Products, Ltd., a Hawaii corporation, dated October 29, 1958, recorded in Liber 3515 on Page 425.

PURCHASE MONEY HANDLING: A copy of the Escrow Agreement duly executed and dated March 29, 1977, between DAVID P. TING and Sons, Inc., as Developer, and Title Guaranty Escrow Services, Inc., as Escrow, has been submitted to the Commission as part of this registration. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, and particularly Section 514-35 through Section 514-40 of the Hawaii Revised Statutes.

Among other conditions, the Escrow Agreement provides for the payment of all monies under the specimen Sales Contract to the Escrow and that Escrow shall not disburse any funds to the Seller prior to the completion of the building unless and until a Final Public Report has been issued to the Buyer. The Escrow Agreement also provides that Escrow shall refund all monies of the Buyer held by Escrow upon the happening of, among other things, the following: (i) Receipt of written notice from Seller and Buyer that changes in the condominium building plans have been made which require the approval of the County Officer having jurisdiction thereof, and that such changes have not been approved and accepted in writing by the Buyer; (ii) Receipt of written notice from Seller and Buyer that the Final Public Report has not been issued within one year from the date of issuance of the Preliminary Report; (iii) Receipt of written notice from the Seller and Buyer that the Final Public Report issued by the Real Estate Commission differs in any material respect from the Preliminary Report.

The specimen Sales Contract states that certain of its terms are subject to the terms of the Escrow Agreement. The Sales Contract also provides, in part: (1) that purchaser agrees that all rights and interest of the purchaser are and shall be subject and subordinate to the lien of any mortgage made to finance the cost of construction of the project by developer; (2) if construction of the project is not completed by June 1, 1979, either developer or purchaser may, upon fifteen (15) days written notice to the other, terminate the Sales Contract and all sums paid by purchaser shall be refunded without interest; (3) if purchaser has defaulted on the Sales Contract, developer may terminate said contract, at which time, Escrow shall charge a \$25.00 cancellation fee and thereafter treat all funds of such purchaser as the escrowed funds of developer.

It is incumbent upon the purchaser or prospective purchaser to read with care the Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds paid into escrow are placed in trust, as well as the retention, disbursement and refund of said trust funds.

MANAGEMENT AND OPERATION: The proposed Declaration states that the administration of the Horizontal Property Regime shall be vested in the "Association of Apartment Owners" of the Project, referred to as the "Association". Each fee owner of an apartment automatically, upon becoming an owner, becomes a member

of said Association and remains a member until such time as his ownership ceases. Under the proposed By-Laws the Association will have the responsibility of the general administration of the project, establishing and collecting monthly assessments, and arranging for the management of the project by a managing agent. The Board of Directors are given the power and duty to manage, operate, care, and maintain the property of the regime, the common elements and the limited common elements, to approve the annual budget, and to employ and dismiss personnel necessary for the maintenance, operation, repair, and replacement of the common elements.

FINANCING OF THE PROJECT: The Developer's attorney has advised the Commission that the Developer will obtain a Construction Mortgage and by virtue of said Mortgage the construction of the project will begin. The Developer, however, will not obtain a commitment for permanent mortgages of individual apartment units. It is the intent of the Developer to leave each prospective Buyer to obtain a mortgage from such bank or savings and loan institution as the Buyer may desire. The Developer proposes to do no more than to advise the Buyers as to what lending institutions may have funds available for condominium loans and to which Buyers may apply.

STATUS OF THE PROJECT: The Developer's attorney has advised the Commission that construction of the project will commence on or about August 1, 1977. The estimated date of completion is set forth as December, 1978, in the Notice of Intention.

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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 May 26, 1976, and information subsequently filed on **June 6, 1977.**

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 860 filed with the Commission May 26, 1976.

The report, when reproduced, shall be a true copy of the Commission's public report. The paper stock used in making facsimiles must be yellow.

  
AH KAU YOUNG, CHAIRMAN  
REAL ESTATE COMMISSION  
STATE OF HAWAII

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BUREAU OF CONVEYANCES  
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FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

REGISTRATION NO. 860

June 8, 1977