

# 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

KIHEI ALII KAI  
"KAMAOLE HOMESTEADS"  
Kihei, Maui, Hawaii  
REGISTRATION NO. 909

### 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: September 6, 1977

Expired: October 6, 1978

#### 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED MAY 3, 1977 AND ADDITIONAL MATERIAL SUBSEQUENTLY FILED AS OF AUGUST 30, 1977. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. KIHEI ALII KAI is a proposed fee simple condominium project consisting of one hundred twenty-seven (127) residential apartments with one hundred sixty-six (166) unassigned parking stalls.
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 Association of Apartment Owners and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.

4. No advertising or promotional matter has yet been submitted pursuant to 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, and the rules and regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Report automatically expires thirteen (13) months after date of issuance, September 6, 1977, unless a Final or Supplementary Public Report is published or the Commission, upon review of registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of the registration of KIHEI ALII KAI condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and securing a signed copy of the Receipt for the report from each.

NAMES OF PROJECT: KIHEI ALII KAI

LOCATION: The approximately 3.78 acres of land to be submitted to the regime is situated at "Kamaole Homesteads", Kihei, Maui, Hawaii.

TAX KEY: 3-9-20:16 (Second Division)

ZONING: H-2 (12 stories) and HM (6 stories)

DEVELOPER: Mau-Van Development, Inc., a Hawaii corporation, whose business and post office address is 203 Lahaina Shopping Center Office Building, Lahaina, Maui, Hawaii 96761 (Telephone No. 661-4458).

The officers of the corporation are:

Nelson Christensen, President	1624 Kuuipo St., Lahaina, Maui, Hawaii
Norma Asio, Vice President	1318 Front St., Lahaina, Maui, Hawaii
Florian Christensen, Secretary/Treasurer	1624 Kuuipo St., Lahaina, Maui, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Nelson Christensen, 203 Lahaina Shopping Center Office Building, Lahaina, Maui, Hawaii 96761 (Telephone No. 661-4458).

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the Project is to consist of one hundred twenty-seven (127) residential apartments, arranged throughout four (4) separate apartment buildings designated the "Aloha", "Beach", "Coral" and "Dolphin" Buildings. One hundred seven (107) apartments contain one bedroom, a living room, a combination entry and hall, a kitchen, a bathroom and a lanai. Twenty (20) of the apartments contain two bedrooms, a living room, a combination entry and hall, two bathrooms and two lanais. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls, the interior party walls, the floor and ceiling which surround the apartment and any pipes, shafts, wires, conduits or other utility or service lines, running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as herein-after provided. Each apartment shall include the adjacent lanai or lanais, all the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, the exterior of the lanai railing and all air space encompassed within the apartment,

together with fixtures and other such improvements located therein.

Each building shall be constructed principally of reinforced concrete block, pre-stressed concrete, glass and wood.

The floor of each apartment, together with the area of its appurtenant lanai or lanais and also its individual percentage interest in the common elements is as follows:

<u>Apartment No.</u>	<u>Total Living Area in Square Feet</u>	<u>Lanai or Lanais</u>	<u>Percentage of Common Area</u>
A-101	945	230	1.02%
A-102	700	150	.744%
A-103	700	150	.744%
A-104	700	150	.744%
A-105	700	150	.744%
A-106	700	150	.744%
A-107	700	150	.744%
A-108	945	230	1.02%
A-201	945	230	1.02%
A-202	700	150	.744%
A-203	700	150	.744%
A-204	700	150	.744%
A-205	700	150	.744%
A-206	700	150	.744%
A-207	700	150	.744%
A-208	945	230	1.02%
A-301	945	230	1.02%
A-302	700	150	.744%
A-303	700	150	.744%
A-304	700	150	.744%
A-305	700	150	.744%
A-306	700	150	.744%
A-307	700	150	.744%
A-308	945	230	1.02%
A-401	945	230	1.02%
A-402	700	150	.744%
A-403	700	150	.744%
A-404	700	150	.744%
A-405	700	150	.744%
A-406	700	150	.744%
A-407	700	150	.744%
A-408	945	230	1.02%
B-101	700	150	.744%
B-102	700	150	.744%
B-103	700	150	.744%
B-104	700	150	.744%
B-105	700	150	.744%
B-106	700	150	.744%
B-107	700	150	.744%
B-108	945	230	1.02%

B-201	700	150	.744%
B-202	700	150	.744%
B-203	700	150	.744%
B-204	700	150	.744%
B-205	700	150	.744%
B-206	700	150	.744%
B-207	700	150	.744%
B-208	945	230	1.02%
B-301	700	150	.744%
B-302	700	150	.744%
B-303	700	150	.744%
B-304	700	150	.744%
B-305	700	150	.744%
B-306	700	150	.744%
B-307	700	150	.744%
B-308	945	230	1.02%
B-401	700	150	.744%
B-402	700	150	.744%
B-403	700	150	.744%
B-404	700	150	.744%
B-405	700	150	.744%
B-406	700	150	.744%
B-407	700	150	.744%
B-408	945	230	1.02%
C-102	700	150	.744%
C-103	700	150	.744%
C-104	700	150	.744%
C-105	700	150	.744%
C-106	700	150	.744%
C-107	700	150	.744%
C-108	945	230	1.02%
C-201	700	150	.744%
C-202	700	150	.744%
C-203	700	150	.744%
C-204	700	150	.744%
C-205	700	150	.744%
C-206	700	150	.744%
C-207	700	150	.744%
C-208	945	230	1.02%
C-301	700	150	.744%
C-302	700	150	.744%
C-303	700	150	.744%
C-304	700	150	.744%
C-305	700	150	.744%
C-306	700	150	.744%
C-307	700	150	.744%
C-308	945	230	1.02

C-401	700	150	.744%
C-402	700	150	.744%
C-403	700	150	.744%
C-304	700	150	.744%
C-405	700	150	.744%
C-406	700	150	.744%
C-407	700	150	.744%
C-408	945	230	1.02%
D-101	700	150	.744%
D-102	700	150	.744%
D-103	700	150	.744%
D-104	700	150	.744%
D-105	700	150	.744%
D-106	700	150	.744%
D-107	700	150	.744%
D-108	945	230	1.02%
D-201	700	150	.744%
D-202	700	150	.744%
D-203	700	150	.744%
D-204	700	150	.744%
D-205	700	150	.744%
D-206	700	150	.744%
D-207	700	150	.744%
D-208	945	230	1.02%
D-301	700	150	.744%
D-302	700	150	.744%
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D-405	700	150	.744%
D-406	700	150	.744%
D-407	700	150	.744%
D-408	945	230	1.02%

COMMON ELEMENTS: The proposed Declaration reflects that the common elements shall include the limited common elements as described hereinafter, and all other portions of the project other than the apartments, including specifically but not limited to:

- (a) The land in fee simple.
- (b) All foundations, floor slabs, columns, girders, beams, supports, bearing walls, roofs, corridors, stairs, elevators and elevator shafts, lobbies, offices, machine rooms, storage rooms and trash chutes.
- (c) All yards, grounds, landscaping, the swimming pool, the tennis court, volleyball court, putting green, and other recreational facilities.
- (d) All parking areas and spaces, driveways, and walkways.
- (e) All central and appurtenant installations for utilities and/or services such as power, light, telephone, gas, water, television, sewage disposal, and all ducts, electrical equipment, tanks, pumps, motors, fans, compressors, pipes, wiring and other apparatus and installations existing for common use.
- (f) All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration reflects that the limited common elements include any pump, motor, fan, fan, compressor or duct, or any installation for power, light, telephone, gas, hot and cold water, heating, refrigeration, television, sewage disposal, air conditioning, or other utilities, (including all pipes, ducts, wires, cables and conduits used in connection therewith), located in a common element, designed to serve one apartment, (that is, not designed or existing for common use), and the same shall be reserved for the exclusive use and benefit of such apartment, and all costs and expenses of every description pertaining thereto including but not limited to the cost of the maintenance, repair and replacement thereof, and the making of any additions and improvements thereto, shall be charged to the owner of such apartment.

BY-LAWS: Prospective purchasers are advised to carefully read the By-Laws attached to the Declaration of Horizontal Property Regime, which provide for administration of the common elements of the Project and the affairs of the Association of Apartment Owners.

INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration and the specimen copies of the conveyance documents submitted to the Commission reflect that an apartment deed in fee simple to each apartment and its appurtenant undivided interest in the common elements of the Project shall be recorded in the name of each apartment purchaser.

Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project and the same proportionate share in all common profits and expenses of the project and for all other purposes, including voting, as set forth hereinabove under "Description".

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, licensees, families, domestic servants and social guests, and for no other purpose. The use of an apartment as the location of a business is expressly prohibited. The respective apartment owners shall have the absolute right to rent or lease their apartments, subject to all provisions of the Declaration and the By-Laws.

OWNERSHIP OF TITLE: A Preliminary Report issued on August 12, 1977 by Hawaii Escrow & Title, Inc. certifies that title to the property is held by Meyer M. Ueoka, husband of Yukie H. Ueoka, Lawrence N.C. Ing, husband of Betty K. Ing, and B. Martin Luna, husband of Kay Y. Luna, as Joint Tenants. Said land is subject to an Agreement of Sale dated July 5, 1977 to Developer as Purchaser.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated August 12, 1977 states that title to the property is subject to the following:

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. 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.
3. The effect of covenants, conditions, restrictions, reservations, agreements, obligations and other provisions set forth in the Agreement of Sale dated July 5, 1977 recorded July 5, 1977 in the Bureau of Conveyances, State of Hawaii in Book 12305, Page 290.
4. Agreement of Sale dated July 5, 1977 recorded July 5, 1977 in the Bureau of Conveyances, State of Hawaii in Book 12305, Page 290.
5. For any taxes that are due and owing, references is hereby made to the Office of the Tax Assessor, Second Division.

PURCHASE MONEY HANDLING: A copy of the Escrow Agreement duly executed and dated April 11, 1977, between the Developer, as Seller, and Hawaii Escrow and Title, Inc., a Hawaii Corporation, as Escrow, has been submitted to the Commission as part of the registration. On examination the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly Section 514-35 and Sections 514-36 through 514-40.

Among other provisions the executed Escrow Agreement states that a purchaser under a Sales Contract, upon written request, shall be entitled to a refund of all monies deposited with Escrow without interest and less Escrow's FIFTEEN AND NO/100 DOLLARS (\$15.00) cancellation fee together with the cost of any credit reports, long distance telephone charges and other like incidental expenses reasonably incurred on behalf of the Purchaser, if any of the following events shall have occurred:

(a) Escrow has received a written request from Seller to return to Purchaser the funds of such Purchaser then held by Escrow; or

(b) If Purchaser's funds were obtained prior to an issuance of Final Public Report and if there is any change in the building plans, subsequent to the execution of the Sales Contract, requiring the approval of an official of the County in which the project is situate having jurisdiction over the issuance of construction permits, unless the Purchaser has given written approval or acceptance of the change; or

(c) If a Purchaser's funds were obtained prior to the issuance of a Final Public Report and the Final Public Report differs in any material respect from the Preliminary Public Report, unless the Purchaser has previously given written approval or acceptance of such difference; or

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

The Escrow Agreement provides that in certain circumstance the disbursement may be made from the Escrow fund for construction costs, architectural, engineering, financing or legal fees and other incidental Project expenses, interest on mortgage loan funds and payment of sales commissions to sales agents; however, no disbursements may be made from the Escrow fund unless and until the Commission has issued a Final Public Report on the Project and Seller shall have furnished a written opinion to Escrow Prepared by Seller's attorney to the effect that the Sales Contracts of Purchasers are of full force and effect and that all requirements of Sections 514-36 through 514-40, Hawaii Revised Statutes, as amended, have been met.

The Sales Contract provides, in part: (1) In the event less than ninety (90) apartment units are sold prior to February 1, 1978, Developer shall have the option to cancel said contract, in which event Developer will cause escrow to refund to purchaser all moneys paid, without interest; and (2) Developer shall have the right (i) to mortgage the land and improvements to secure repayment of a loan for the construction of improvements and/or any other purposes and that such mortgage or mortgages shall have priority over any and all interests whatsoever that the purchaser may have acquired and (ii) to insure the work in progress for its own account.

It is incumbent upon the Purchaser and the prospective Purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of apartments are placed in trust, as well as the retention and disbursement of said trust funds.

MANAGEMENT AND OPERATIONS: The By-Laws annexed to the proposed Declaration state that the affairs of the Association of Apartment Owners of the Project shall be governed by a Board of Directors, to be elected by the Association. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Project and may do all such acts and things except as by law or by Declaration or By-Laws may not be delegated to the Board by the Apartment Owners. The By-Laws provide that the Board of Directors shall at all times employ a responsible managing agent to manage and control the property, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the managing agent by the Board. The Board may also employ a Manager.

STATUS OF THE PROJECT: Construction has not yet begun on the Project. Developer has advised that it expects to begin construction by November 1, 1977, with completion by September 1, 1978.

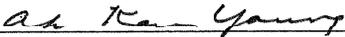
The Plans for the project have been reviewed in depth by the Building and Planning Departments of the County of Maui and have been approved by them.

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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 3, 1977 and additional information subsequently filed as of August 30, 1977.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 909 filed with the Commission on May 3, 1977.

This report, when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles the paper stock shall be yellow in color.

  
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Ah Kau Young, Chairman  
Real Estate Commission  
State of Hawaii

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Registration No. 909  
September 6, 1977.