

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
LUANA KAI
Kihei Road
Kihei, Maui County
State of Hawaii

REGISTRATION NO. 966

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: March 6, 1978

Expires: April 6, 1979

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 buyer or prospective buyer is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED DECEMBER 30, 1977, AND INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 28, 1978. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES.

1. Luana Kai is a leasehold condominium Project which will contain: 113 apartment units located in four (4) low-rise buildings; a project office; and a variety of recreational facilities, including swimming pool, cabana with restrooms and sauna baths; and 145 parking stalls.
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 Preliminary Public Report.

3. The Developer has submitted to the Commission for examination a proposed Declaration of Horizontal Property Regime, proposed By-Laws of the Association of Owners and preliminary floor plans.
4. No advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The buyer or prospective buyer is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration on LUANA KAI condominium project. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and for securing a signed copy of the receipt for this Public Report from each purchaser and prospective purchaser.
7. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, March 6, 1978, unless a Final or a Supplementary Public Report issues or the Commission upon review of the registration issues an order extending the effective period of this report.

NAME OF PROJECT: LUANA KAI

LOCATION: The land submitted to the Regime and on which the Project will be situated is located in Central Kihei, approximately 7 miles from Kahului and 3 miles from Wailea, and contains an area of approximately 3.970 acres.

TAX MAP KEY: Second Division, 3-9-1-6

ZONING: A-2

DEVELOPER: Luana Kai Partners, a Hawaii general partnership, whose mailing address is 10th Floor, 915 Fort Street, Honolulu, Hawaii 96813. Telephone 521-5661. The partners are: David C. Maddox, 1255 South Nutwood, Ste 2, Anaheim, CA, and James K. Schuler, 14 Namala Place, Kailua, Hawaii.

ATTORNEY REPRESENTING DEVELOPER: Law Offices of Robert E. Warner, 1164 Bishop Street, Suite 1612, Honolulu, Hawaii 96813. Telephone 524-8855.

DESCRIPTION: The proposed Declaration submitted to the Commission provides that the land submitted to the Regime will be improved, according to the Developer's plans and intention to sell, by constructing thereon one hundred thirteen (113) apartment units located in four (4) low-rise buildings (without basements); a swimming pool and cabana, and a project office (attached to Building "C"), which shall be one story in height containing an office, a lobby, two bathrooms, general storage, maid supply rooms and maintenance room. All buildings will be constructed basically of concrete, wood, glass and allied building materials. Parking will be in one hundred forty-five (145) unassigned, uncovered on-grade parking stalls located near the Project buildings.

The one hundred thirteen (113) apartments are divided into three basic types: Type 1 all having one bedroom, Type 2 all having two bedrooms, and Type 3 all having three bedrooms. There are a total of four (4) three-bedroom units, sixty-five (65) two-bedroom units and forty-four (44) one-bedroom units. Each unit type is further subdivided as follows:

(a) Type 3-A, containing 3 bedrooms, 3 bathrooms, a living room, a kitchen, 2 lanais, and a hall entryway. The 3-A apartments contain 1468 square feet, more or less, including lanais of 200 square feet.

(b) Type 2-A, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, and a hall entryway. The 2-A apartments contain 1120 square feet, more or less, including a lanai of 112 square feet.

(c) Type 2-B, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, a vestibule entryway. The 2-B apartments contain 1149 square feet, more or less, including a lanai of 137 square feet.

(d) Type 2-C, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, and a hall entryway. The 2-C apartments contain 1147 square feet, more or less, including a lanai of 200 square feet.

(e) Type 2-D, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, and a hall entryway. The 2-D apartments contain 1075 square feet, more or less, including a lanai of 112 square feet.

(f) Type 2-E, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, and a hall entryway. The 2-E apartments contain 1087 square feet, more or less, including a lanai of 114 square feet.

(g) Type 2-F, containing 2 bedrooms, 2 bathrooms, a living room, a kitchen, a lanai, and a hall entryway. The 2-F apartments contain 1060 square feet, more or less, including a lanai of 112 square feet.

(h) Type 1-A, containing 1 bedroom, 1 bathroom, a living room, a kitchen, a lanai, and a hall entryway. The 1-A apartments contain 755 square feet, more or less, including a lanai of 112 square feet.

(i) Type 1-B, containing 1 bedroom, 1 bathroom, a living room, a kitchen, a lanai, and a vestibule entryway. The 1-B apartments contain 767 square feet, more or less, including a lanai of 114 square feet.

(j) Type 1-C, containing 1 bedroom, 1 bathroom, a living room, a kitchen, a lanai and a hall entryway. The 1-C apartments contain 740 square feet, more or less, including a lanai of 112 square feet.

Each apartment will include carpeting and drapes, and will have a refrigerator with icemaker, range and oven, dishwasher, garbage disposer and a washer/dryer.

The perimeter of each of the apartments into which the Project is so divided shall be established by the center line of all perimeter walls which are also party walls (whether or not load-bearing); the exterior face of the perimeter walls which are not party walls (whether or not load-bearing); the exterior face of any glass windows, doors, panels or railings along the perimeter; and the inner decorated or finished surfaces of the perimeter floors and ceilings. Each of the apartments shall include all walls, partitions, floors, ceilings and other improvements within said perimeter; any adjacent lanai shown on the plans; all built-in appliances and fixtures and all furnishings and appliances originally installed; and all air space encompassed within said perimeter; excluding therefrom, however, all elements herein established as common elements; and provided further, however, that each wall or part of a wall within and along said perimeter, whether load-bearing or non-load-bearing, is not so included, but is a common element (except for the inner decorated surface of any perimeter wall, which is included).

NOTE: The Developer intends to improve the adjacent State Beach Reserve Property by landscaping and by constructing thereon two (2) tennis courts and four (4) barbeque pits, if approval for such improvement is granted to the Developer by the State of Hawaii Board of Land and Natural Resources. The improvements, if constructed, will be open to use by the public, including the apartment owners. The adjacent State Beach Reserve Property and any improvements thereto will not be a part of the Project.

If improvements are made by the Developer to the adjacent State Beach Reserve Property, the By-Laws will provide that the Association of Apartment Owners of the Project, at its expense, shall maintain and keep said State Beach Reserve Property, including the tennis courts, in good repair and in a neat and attractive condition and all vegetation thereon in good cultivation and replant the same as may be necessary.

NOTE: The Project lies within the Kihei flood plane and theoretical tsunami inundation zone located within Central Kihei, and as such is subject to possible tsunami and flood inundation. The finish floor level of the buildings will be at an elevation of 11.0 feet above sea level which is in excess of the 100 year flood requirements for Central Kihei as set forth by the Army Corps of Engineers.

COMMON ELEMENTS: The proposed Declaration reflects that the common elements for the entire Project consist of:

(a) Said land in fee simple (which land is intended to be leased to an apartment owner separately and apart from a conveyance or other transfer of an apartment).

(b) All foundations, floor slabs, columns, girders, beams, supports, load-bearing walls, main walls, interior walls separating adjacent apartments in the same building, halls, roofs of the building, stairs, stairways, fire escapes and entrances and exits of the apartment building, elevators, and appurtenances.

(c) All yards, grounds, landscaping, refuse facilities, and switchrooms.

(d) All building walkways, building sidewalks, pathways, parking areas, parking stalls, driveways and roads within the Project.

(e) All ducts, electrical equipment, wiring and other central and appurtenant installations including power, light, water, sewer, gas and telephone; all pipes, plumbing, wires, conduits or other utility or service lines, which run through an apartment but which are utilized by or serve more than one apartment; and air conditioning and like utilities, if installed.

(f) All other portions of the land and improvements not specifically heretofore designated as apartments, but which are intended for common use and all other devices and installations existing for or rationally of common use or necessary to the existence, upkeep and safety of the Horizontal Property Regime.

(g) All recreational facilities, including a swimming pool with detached jacuzzi heated pool, a cabana, a shuffle board court, barbecue areas, and a putting green.

(h) The project office.

(i) A cabana, located beside the pool, and containing 640 square feet, more or less. The cabana shall contain two sauna baths, two bathrooms (containing a sink and toilet), a kitchen equipped with a refrigerator, range top, a double sink, and an open entertainment area.

LIMITED COMMON ELEMENTS: There are no limited common elements.

INTEREST TO BE CONVEYED BUYER: The proposed Declaration states that the undivided interest in the common elements appertaining to each apartment for voting and all other purposes shall be as follows:

<u>Type of Apt.</u>	<u>Area (Ft.²) (Each Apt.)</u>	<u>Percentage of Undivided Interest in the Common Elements (Each Apt.)</u>	<u>No. of Apts.</u>	<u>Total Area (Ft.²) (Each Apt. Type)</u>	<u>Percentage of Ownership in the Common Elements Per Type (Total)</u>
<u>3-Bedroom</u>					
3-A	1,468	1.3245	4	5,872	5.2980
<u>2-Bedroom</u>					
2-A	1,120	1.0106	10	11,200	10.1060
2-B	1,149	1.0368	10	11,490	10.3680
2-C	1,147	1.0349	8	9,176	8.2792
2-D	1,075	.9699	32	34,400	31.0368
2-E	1,087	.9808	4	4,348	3.9232
2-F	1,060	.9564	1	1,060	.9564

Type of Apt.	Area (Ft. ²) (Each Apt.)	Percentage of Undivided Interest in the Common Elements (Each Apt.)	No. of Apts.	Total Area (Ft. ²) (Each Apt. Type)	Percentage of Ownership in the Common Elements Per Type (Total)
<u>1-Bedroom</u>					
1-A	755	.6812	34	25,670	23.1608
1-B	767	.6920	8	6,136	5.5360
1-C	740	.6678	<u>2</u>	1,480	<u>1.3356</u>
			113		100.0000

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration states that each apartment shall be used only as a private dwelling by the respective owners thereof, their tenants, families, domestic servants and guests. Each owner shall comply with the terms of the Declaration and By-Laws of the Association of Apartment Owners as well as House Rules.

The proposed House Rules provide, in part: (1) no livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project; and (2) no water beds are permitted.

OWNERSHIP TO TITLE: The Policy of Title Insurance issued by Security Title Corporation as general agent for Safeco Title Insurance Company, with an effective date of January 17, 1978, certifies that the fee simple title to the land is vested in the Developer.

ENCUMBRANCES AGAINST TITLE: Said Policy of Title Insurance effective January 17, 1978 reveals the following encumbrances:

1. A 20-foot wide storm drain easement, in favor of the County of Maui, as mentioned in that certain Deed dated February 11, 1970, recorded in the Bureau of Conveyances of the State of Hawaii in Book 6915, Page 284.
2. Development conditions and restrictions as set forth in that certain Grant dated March 15, 1974, recorded in said Bureau in Book 9799, Page 451, and re-recorded in said Bureau in Book 9878, Page 509, in favor of the County of Maui, a political subdivision of the State of Hawaii.
3. Real Property Mortgage and Financing Statement dated January 16, 1978, recorded in said Bureau in Book 12671, Page 243, made by the Developer, as Mortgagor, to First Hawaiian Bank, a Hawaii corporation, as Mortgagee, to secure the repayment of the sum of \$900,000.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said mortgagor therein referred to.
4. For any taxes that are due and owing, reference is made to the Office of the Tax Assessor, Second Division.

NOTE: The Declaration will contain a grant to the public to use four (4) parking stalls as may be designated from time to time by the Association, through the Board, for public parking in connection with the concurrent use of the tennis courts, if they are constructed.

The Developer advises that the property will also be subjected to a mortgage or mortgages to finance the development and construction. All mortgages will be released prior to any transfer of title to a purchaser.

PURCHASE MONEY HANDLING: Copies of the specimen Sales Contract, specimen Condominium Conveyance Document and executed Escrow Agreement have been submitted as part of the registration. On examination, the specimen Sales Contract and executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and specifically, but without limitation, to §514A-40(6) and §§514A-37, 514A-39, 514A-63-66. The Escrow Agreement is dated January 20, 1978, and identifies First Hawaiian Bank as the Escrow Agent.

It is incumbent upon the purchaser and prospective purchaser that he read with care these documents. 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 Fund and in particular discloses that down-payment funds may be released from escrow for the payment of certain development costs of the Project in compliance with the above-noted sections of the Hawaii Revised Statutes.

The specimen Sales Contract determines the time for and the amount of installment payments on the purchase price, and the payment of closing costs. The specimen Sales Contract also provides for termination pursuant to the above-noted sections of the Hawaii Revised Statutes; and at the Developer's option, in those circumstances discussed under the heading "Status of the Project", or if the Developer is prevented by law from proceeding with the construction of the Project, or in the event that the Developer sells less than seventy percent (70%) of the apartments by October, 1978, or if the purchaser should default. Purchasers and prospective purchasers should read said provisions of the specimen Sales Contract with care.

The specimen Sales Contract also provides that it shall operate as a reservation of an apartment in favor of the purchaser, subject to purchaser's continued performances thereunder, but not as a binding obligation to purchase unless and until the purchaser voluntarily receipts for a copy of the Final Public Report on the Project. Further, the specimen Sales Contract provides that if construction has not commenced for any reason by August, 1978, then or at any time thereafter until construction does commence, the Developer may terminate a Sales Contract. All interest on payments made pursuant to a Sales Contract belongs to the Developer.

NOTE: Buyer acknowledges and agrees that all security interests obtained by the construction lender in connection with such loan as well as any extensions, renewals and modifications thereof shall be and remain at all times a lien or charge on the Project prior to and superior to any and all liens or charges arising from the Sales Contract or any other prior reservation agreement.

MANAGEMENT AND OPERATION: The By-Laws of this Project state that the Board of Directors may employ, for the Association of Apartment Owners, a management agent to perform such duties as the Board shall authorize, including the collection of all assessments from the owners. The specimen Sales Contract provides that the Developer, acting on behalf of the Association, has the authority to appoint a responsible corporate management agent. The management agent shall be designated at the time of the Developer's request for a Final Report.

STATUS OF PROJECT: The Notice of Intention reflects that construction of the Project has not commenced as of the date of this Public Report, nor has the contractor been selected, nor has interim or permanent financing for the Project been arranged. The Developer advises that it has set August, 1978, as the estimated date for commencement of construction.

The Developer has the obligation, as set forth in the specimen Sales Contract, to complete the construction of the Project within two years from the date of issuance by the Real Estate Commission of a Final Public Report on the Project, and as stated above under the heading "Purchase Money Handling", a purchaser signing a Sales Contract merely reserves an apartment and is not obligated to purchase unless and until he voluntarily receipts for a copy of the Final Public Report. The Developer's obligation to complete the Project within said two-year period is subject to extensions of time for matters outside of the Developer's control; provided, if such extensions exceed three (3) months, the Developer may terminate the Sales Contract and if such extensions exceed nine (9) months, then either party may terminate the Sales Contract.

The Buyer or prospective buyer should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted December 30, 1977, and information subsequently filed as of February 28, 1978.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 966 filed with the Commission on December 30, 1977.

The report when reproduced shall be a true copy of the Commission's Preliminary 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
PLANNING DEPARTMENT, COUNTY OF MAUI
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ESCROW AGENT

Registration No. 966

March 6, 1978