

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
MAHINAHINA BEACH
4007 Honoapiilani Highway
Honokawai, Island of Maui, Hawaii

REGISTRATION NO. 1047

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: December 19, 1978
Expires: January 19, 1980

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:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED OCTOBER 17, 1978 AND INFORMATION SUBSEQUENTLY FILED AS OF DECEMBER 12, 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. MAHINAHINA BEACH is a proposed leasehold residential condominium project consisting of four (4) residential buildings containing thirty-two (32) apartments and two (2) utility buildings for parking stalls, pool and other amenities. The project shall contain a swimming pool, a pool cabana, a whirlpool, a putting green, a sewage treatment plant and twenty-eight (28) covered and twenty-five (25) open parking stalls.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this proposed condominium project and the 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 yet been filed in the office of the recording officer.

4. The Developer has advised the Commission that advertising and promotional materials required to be filed pursuant to the rules and regulations promulgated by the Commission will be submitted prior to public exposure.

5. The purchaser or prospective purchaser 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 of the MAHINAHINA BEACH condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed receipt for said Preliminary Public Report from all purchasers and prospective purchasers is also the responsibility of the Developer.

7. This Preliminary Public Report automatically express thirteen (13) months after date of issuance, December 19, 1978, unless a Final or Supplementary Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: MAHINAHINA BEACH

LOCATION: The land of the project, consisting of approximately 1.825 acres (77,493 square feet) is situate at 4007 Honoapiilani Highway, Honokawai, Maui, Hawaii.

TAX KEY: (Second Division) 4-3-08:1 and 4-3-09:8

ZONING: A-1

DEVELOPER: Hawaii Omori Corporation, a Hawaii corporation, whose principal place of business and post office address is 1189 Halepaka Place, Lahaina, Maui, Hawaii; phone 661-3580.

The officers of the corporation and their addresses are as follows:

Masao Omori, President - Kanagawa-ken, Japan
Shigemitsu Omori, Chairman/Treasurer/Secretary -
Kanagawa-ken, Japan
Takao Sakuma, Executive Vice President -
Kanagawa-ken, Japan
Yoneko Omori, Vice President - Kanagawa-ken, Japan
Akira Hasei, Vice President - Kanagawa-ken, Japan
Kenzo Tomika, Vice President - Kanagawa-ken, Japan
Shunji Ueki, Assistant Treasurer - Wailuku, Maui, Hawaii
Andy M. Ichiki, Assistant Secretary - Honolulu, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Mukai, Ichiki, Raffetto & MacMillan (Attention: Andy M. Ichiki and Michael R. Garner), 345 Queen Street, Suite 800, Honolulu, Hawaii. Telephone number: 531-6277.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal Project Regime describes the project as follows:

1. Description of Buildings. The project will consist of six (6) buildings containing a total of thirty-two (32) residential units and other amenities. The buildings are designated in the proposed Declaration and on the proposed Condominium File Plan as Buildings I through VI, inclusive, and are more particularly described as follows:

a. Buildings I and II will be two-story structures containing, respectively, four (4) and eight (8) apartments. Said buildings will be constructed above and integrated with a partially sub-grade parking structure (Building VI) connecting the two buildings. The parking structure shall contain twenty-eight (28) paved parking stalls, an electrical room, a storage room, a restroom with shower and a site for the future installation of thirty-two (32) individual storage lockers. The roof of the parking structure will be utilized as an open recreational deck.

b. Building III will be a two-story structure containing eight (8) apartments.

c. Building IV will be a two-story structure containing twelve (12) apartments.

d. Building V will be a two-story structure appended to the parking structure and recreational deck by a concrete bridge and stairway. The building shall serve as a combination pool cabana and manager's office and shall contain pool and mechanical equipment rooms, shower and restroom facilities, the manager's office and a storage area for maintenance personnel.

Each of the buildings will be of primarily concrete plank and topping roof and floor construction on plastered concrete block bearing walls, wood shake decor on the second floor level, and said buildings shall also incorporate glass, aluminum, gypsum board and allied building materials. In addition to said buildings, the project shall also contain a swimming pool, a whirlpool, a structure housing the equipment for the whirlpool, a putting green, a sewage treatment plant and an open parking area containing twenty-five (25) parking spaces. The mailboxes for the project will be located at the entry of the project from Honoapiilani Highway.

2. Description of Apartments. The project is divided into thirty-two (32) separately designated residential units (hereinafter called "apartments"), as more particularly described herein and on the proposed Condominium File Plan. The location, numbering, type, approximate gross areas in square feet, number of rooms and appurtenant common interest of each apartment are as follows:

| <u>Apartment No.</u> | <u>Floor Plan Type</u> | <u>Approx. Living Area in Sq. Ft.</u> | <u>Approx. Lanai Area in Sq. Ft.</u> | <u>No. of Rooms</u> | <u>Percentage Common Interest</u> |
|----------------------|------------------------|---------------------------------------|--------------------------------------|---------------------|-----------------------------------|
| <u>Building I</u> | | | | | |
| 111 | A | 1,159 | 206 | 6 | 3.58956 |
| 112 | A | 1,159 | 206 | 6 | 3.58956 |
| 211 | A | 1,159 | 174 | 6 | 3.58956 |
| 212 | A | 1,159 | 174 | 6 | 3.58956 |
| <u>Building II</u> | | | | | |
| 113 | A | 1,159 | 206 | 6 | 3.58956 |
| 114 | B | 859 | 160 | 4-1/2 | 2.66044 |
| 115 | B | 859 | 160 | 4-1/2 | 2.66044 |
| 116 | A | 1,159 | 206 | 6 | 3.58956 |
| 213 | A | 1,159 | 174 | 6 | 3.58956 |
| 214 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 215 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 216 | A | 1,159 | 174 | 6 | 3.58956 |
| <u>Building III</u> | | | | | |
| 107 | A | 1,159 | 366 | 6 | 3.58956 |
| 108 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 109 | B | 859 | 128 | 4-1/2 | 2.66044 |

| | | | | | |
|-----|---|-------|-----|-------|---------|
| 110 | A | 1,159 | 366 | 6 | 3.58956 |
| 207 | A | 1,159 | 174 | 6 | 3.58956 |
| 208 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 209 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 210 | A | 1,159 | 174 | 6 | 3.58956 |

Building IV

| | | | | | |
|-----|---|-------|-----|-------|---------|
| 101 | A | 1,159 | 366 | 6 | 3.58956 |
| 102 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 103 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 104 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 105 | B | 859 | 128 | 4-1/2 | 2.66044 |
| 106 | A | 1,159 | 366 | 6 | 3.58956 |
| 201 | A | 1,159 | 174 | 6 | 3.58956 |
| 202 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 203 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 204 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 205 | B | 859 | 137 | 4-1/2 | 2.66044 |
| 206 | A | 1,159 | 174 | 6 | 3.58956 |

All areas set forth hereinabove were computed by measuring from the outside of the exterior walls and from the centerline of interior party walls, and no reduction has been made to account for interior walls, ducts, vent shafts and the like located within the perimeter walls.

3. Type of Apartments.

a. Each of the sixteen (16) apartments designated as type "A" will contain an entry hallway and six (6) rooms consisting specifically of two bedrooms, two bathrooms, a living/dining room and a kitchen. Each unit shall also have a lanai area.

b. Each of the sixteen (16) apartments designated as type "B" will contain an entry hallway and four and one-half (4-1/2) rooms consisting specifically of one bedroom, one and one-half (1-1/2) baths, a living/dining room and a kitchen. Each unit shall also have a lanai area.

4. Access. Each ground floor apartment will have immediate access to its entry and to the walkways leading to the grounds of the project. Each apartment above the ground floor will have immediate access to its entry and to stairways connecting such apartment with the grounds of the project.

5. Limits of Apartments. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment, any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as provided in the proposed Declaration. Subject to the foregoing, each apartment shall be deemed to include all of the walls and partitions which are not load-bearing within its perimeter or party walls, any glass windows or panels, window frames, doors and door frames within its perimeter, the inner decorated or finished surfaces of all

walls, floors and ceilings, all adjacent lanais, and any fixtures and appliances originally installed therein.

COMMON ELEMENTS: The proposed Declaration states that the common elements shall include, but shall not be limited to:

1. All of the land of the project;
2. All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls (except for the inner decorated surface within each unit), roofs, stairways, walkways, entrances and exits of the buildings;
3. Buildings V and VI;
4. All yards, grounds, walkways, landscaping, storage areas, refuse facilities, the swimming pool and its filtration equipment, the whirlpool and its equipment room and all other recreational facilities and appurtenances;
5. All driveways and parking areas;
6. Twenty-one (21) guest parking stalls as designated on the proposed Condominium File Plan as thirty-three (33) through fifty-three (53), inclusive;
7. All ducts, sewer lines, sewage treatment plant, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities, installations which serve more than one apartment for services such as power, light, water, gas, air conditioning, refuse, telephone and radio and television signal reception and distribution; and
8. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that certain parts of the common elements, designated as "limited common elements", are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

1. The stairway(s) serving each apartment above the ground floor of the project shall be for the exclusive use of the apartments served thereby.
2. One (1) automobile parking stall shall be a limited common element appurtenant to each apartment and shall be for the exclusive use of said apartment. The particular parking stall appurtenant to each apartment is set forth hereinbelow. Each apartment shall always have at least one parking stall appurtenant to it, but otherwise any parking stall may be transferred from apartment to apartment in the project as provided by law.

| <u>Apartment No.</u> | <u>Parking Stall No.</u> |
|--------------------------|------------------------------|
| <u>Building I</u> | |
| 111 | 29 |
| 112 | 30 |
| 211 | 31 |
| 212 | 32 |
| <u>Building II</u> | |
| 113 | 23 |
| 114 | 22 |
| 115 | 21 |
| 116 | 20 |
| 213 | 19 |
| 214 | 18 |
| 215 | 17 |
| 216 | 16 |
| <u>Building III</u> | |
| 107 | 8 |
| 108 | 9 |
| 109 | 10 |
| 110 | 11 |
| 207 | 12 |
| 208 | 13 |
| 209 | 14 |
| 210 | 15 |
| <u>Building IV</u> | |
| 101 | 24 |
| 102 | 25 |
| 103 | 26 |
| 104 | 27 |
| 105 | 28 |
| 106 | 7 |
| 201 | 1 |
| 202 | 2 |
| 203 | 3 |
| 204 | 4 |
| 205 | 5 |
| 206 | 6 |

INTEREST TO BE CONVEYED TO PURCHASERS: Developer shall, by means of a condominium conveyance document, convey the apartment and the undivided percentage interest in the common elements (exclusive of land) appurtenant thereto, and demise an undivided percentage interest, equal to the above-stated percentage interest, in the land described in the proposed Declaration. The percentage interest appurtenant to each apartment is set forth hereinabove under the heading "Description of Project" and shall be the same proportionate share in all common profits and expenses of the project, and for all other purposes including voting.

RESTRICTIONS AS TO USE: The apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and may be utilized for long-term or transient rentals. Subject to the foregoing limitations, the owners of the respective apartments shall have the absolute right to rent or lease such apartments subject to all provisions of the Declaration.

OWNERSHIP OF TITLE: A preliminary title report, dated September 8, 1978, issued by Title Guaranty of Hawaii, Incorporated, indicates that title to the land is vested in: 1) Jeannette Evans Duhrsen Stephenson, wife of Robert W. Stephenson, as trustee under that certain unrecorded revocable living trust agreement dated November 16, 1977, as to Parcel First (TMK: 4-3-8:1); and 2) Developer as to Parcel Second (TMK: 4-3-9:8).

ENCUMBRANCES AGAINST TITLE: Said preliminary title report dated September 8, 1978, issued by Title Guaranty of Hawaii, Incorporated, reports that title to the land is subject to the following:

1. For any real property taxes that may be 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. The location of the seaward boundary in accordance with the laws of the State of Hawaii, and shoreline setback line in accordance with county regulation and/or ordinance.
4. As to Parcel First only (TMK: 4-3-8:1);
 - a. The terms, conditions and provisions contained in that certain unrecorded trust agreement dated November 16, 1977, made by Jeannette Evans Duhrsen Stephenson, as settlor and trustee.
 - b. That certain Agreement of Sale, dated June 7, 1974, made by and between Jeannette E. Stephenson, formerly known as Jeannette E. Duhrsen, wife of Robert W. Stephenson, as vendor, and Masao Omori and Yoneko Omori, husband and wife, as vendee, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9961 at Page 1.
 - c. The above Agreement of Sale was assigned to Developer by that certain Assignment of Agreement of Sale, dated July 5, 1977, and recorded in said Bureau as aforesaid in Liber 12394 at Page 601.

PURCHASE MONEY HANDLING: An executed Escrow Agreement, dated September 2, 1977, identifies Title Guaranty Escrow Services, Inc., a Hawaii corporation, as the escrow agent. Upon examination, the specimen Deposit Receipt and Sales Contract

and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly §514A-39 and §514A-63 through §514A-66.

Among other provisions, the Escrow Agreement provides that a purchaser under a Sales Contract shall be entitled to a return of his funds, without interest and less the \$25.00 escrow cancellation fee, after purchaser has requested such return and if Escrow shall have received from Developer a written notice that any of the following has occurred:

(a) Developer shall have requested Escrow to return to purchaser the funds of purchaser then being held by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to rescind the Sales Contract pursuant to any right of rescission stated therein or otherwise available to Developer; or

(c) There shall have been a change in the building plans of the project subsequent to the date of Developer's execution of the Sales Contract which change requires the approval of a county officer having jurisdiction over the issuance of building permits unless the purchaser gives his written approval or acceptance of the specific change; or

(d) The Final Report differs in a material respect from this Preliminary Report unless the purchaser has given written approval or acceptance of the changes in said Final Public Report; or

(e) The Final Report shall not have been issued within one (1) year from the date of issuance of this Preliminary Report.

The specimen Deposit Receipt and Sales Contract also states:

(1) If the project is not completed and ready for occupancy within two (2) years from the date of Buyer's execution of the Sales Contract, then Buyer shall have the right to terminate the Sales Contract and Developer shall cause Escrow to refund all payments previously made without interest, less \$25.00 cancellation fee and other costs actually incurred by the Seller or lending institution in processing the loan application, and Developer shall be relieved and released of all further liability; and (2) All of Buyer's right, title and interest under the Sales Contract are and shall be subject and subordinate to the lien of any mortgage made by Developer to any institutional lender for the purpose of securing the repayment of a construction loan.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Deposit Receipt and Sales Contract, since the Escrow Agreement describes the procedure for receiving and disbursing

purchasers' funds, and the Deposit Receipt and Sales Contract specifically provides that the purchaser approves that Escrow Agreement and assumes the benefit and obligations therein provided.

MANAGEMENT OF PROJECT: The By-Laws, which are incorporated in the Declaration, provide that the operation of the project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The initial Managing Agent has not yet been selected; however, the Developer is authorized by the Declaration to receive service of legal process in all cases provided in the Horizontal Property Act until such time as a managing agent shall be selected.

STATUS OF PROJECT: Construction of the project has not yet commenced; however, it is expected that the project will be completed on or about September 15, 1979.

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 October 17, 1978 and information subsequently filed as of December 12, 1978.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1047 dated October 17, 1978. 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.

Ah Kau Young

AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

Distribution:

Department of Taxation
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Federal Building Administration
Escrow Agent

Registration No. 1047

December 19, 1978