

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

ON

MANOA ESTATES
3577 Pinao Street, Honolulu, Hawaii
REGISTRATION NO. 1097

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 until

- (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: January 29, 1980
Expires: March 1, 1981

SPECIAL ATTENTION

A comprehensive reading of this Report by the prospective purchaser is urged in order that personal requirements and expectation 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 REQUIRED NOTICE OF INTENTION SUBMITTED FEBRUARY 27, 1979, AND MATERIAL SUBSEQUENTLY FILED AS OF JANUARY 15, 1980. IN ADDITION, AN INSPECTION OF THE PREMISES WAS MADE BY THE STAFF OF THE DEPARTMENT OF REGULATORY AGENCIES ON APRIL 3 AND 4, 1979.

THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT (CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED).

1. Since the issuance by the Commission of its Preliminary Public Report on MANOA ESTATES, Registration No. 1097, dated April 16, 1979, and its Supplementary Report on the same project dated August 21, 1979, the Developer has submitted additional material that bears significantly on the Project.
2. The Developer of the Project has filed all documents and materials deemed necessary by the Commission for the registration of this condominium project and the issuance of this Final Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Dwelling Owners and a copy of Approved Floor Plans) have been filed in the office of the recording officer. The Declaration of Horizontal Property Regime, together with the By-Laws of the Association of Dwelling Owners attached thereto, were filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 935093 and in the Bureau of Conveyances of the State of Hawaii in Liber 13648, Page 431, on the 30th day of April, 1979, together with site, elevation and floor plans incorporated in said Declaration by reference filed as Condominium File Plan No. 608 and Condominium Map No. 366.

These documents were amended by the First Amendment to Declaration to Horizontal Property Regime and By-Laws of Manoa Estates and the First Addendum to Condominium File Plan No. 608 and Condominium Map No. 366 filed therewith, all of which were filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 981153 and in the Bureau of Conveyances of the State of Hawaii on the 27th day of November, 1979, in Liber 14236 at Page 549.

4. The Developer has advised the Commission that advertising and promotional matter required to be filed pursuant to the rules and regulations promulgated by the Commission have been 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 Rules and Regulations promulgated thereunder which relate to Horizontal Property Regimes.
6. This Final Public Report is made a part of the registration of the MANOA ESTTES condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock), the Supplementary Public Report (pink paper stock), the Final Public Report (white paper stock), and the Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed receipt therefor.

7. This Final Public Report automatically expires thirteen (13) months after date of issuance, January 29, 1980, unless a Second Supplementary Public Report issues or the Commission, upon review of this registration, issues an order extending the effective period of this Report.

The information in the Preliminary Report and the Supplementary Report has not changed with the exception of information under the following topical headings:

LOCATION: The project, consisting of approximately 24.250 acres, is located at 3577 Pinao Street, Manoa, Honolulu, Hawaii.

OWNERSHIP OF TITLE: Developer has submitted a Preliminary Report from Hawaii Escrow & Title Inc. dated December 4, 1979 that indicates title to the land is still vested in Manoa Finance Company, Inc., a Hawaii corporation, and that an Agreement of Sale was executed by Manoa Finance Company, Inc., to the Developer, Manoa Estates Partners, Ltd., a Hawaii Limited Partnership, dated December 28, 1978. The Developer has represented to the Real Estate Commission that the Owner, Manoa Finance Company, Inc., will convey the project free and clear of any encumbrances to the Developer who will, in turn, issue individual dwelling deeds to purchasers.

ENCUMBRANCES AGAINST TITLE: Based on said Preliminary Report of December 4, 1979, all of the encumbrances shown in the Commission's Preliminary Public Report of April 16, 1979 are still in effect except that with regard to encumbrance #10, May 13, 1979 should be revised to May 13, 1970 and encumbrance #12 should be deleted. In addition, said Preliminary Report reflects the recording of said Declaration and By-Laws and First Amendment to Declaration.

NOTE: A complaint in the matter of John Mullins et al. v. Ah Kau Young et al. Civil No. 57694 was filed in the First Circuit Court, State of Hawaii. Appellants therein challenged the issuance of the Preliminary Public Report issued on April 16, 1979.

Pursuant to court order, a Supplementary Public Report was issued on August 21, 1979 providing additional information to the public. Upon issuance of the Supplementary Public Report, the developer was authorized to proceed with sale of units.

On October 24, 1979 an order granting summary judgment for Appellees was filed in the Circuit Court.

Appellants therein have appealed the decision of the Circuit Court.

STATUS OF PROJECT: Information under this topical heading in the commission's Preliminary Public Report still applies. However, certain information in the Supplementary Public Report issued August 21, 1979 has been altered significantly by subsequent events and documentation.

1. After the June 8, 1979 hearing on the complaint in the matter of John Mullins, et al. v. Ah Kau Young, et al.,

Civil No. 57694, referred to in the Supplementary Report, another hearing was held on October 2, 1979, and Summary Judgment was given in favor of Ah Kau Young, et al., (Appellees) and against John Mullins, et al., (Appellants) which Judgment, filed on October 24, 1979 found as follows:

(a) That inasmuch as HRS §514A-36 provides that a declaration must be filed prior to the issuance of a final public report and not prior to the issuance of a preliminary public report and HRS §514A-37 provides that a preliminary public report may be issued upon receipt of a notice of intention, a preliminary report may be issued upon receipt of a notice of intention and without the prior filing of a declaration.

(b) That the word "or" in HRS §514A-20 is used in the disjunctive form and the approval of Appellants, who are month-to-month tenants, is not required in order to submit the subject property to the horizontal property regime pursuant to HRS §514A-20.

(c) That the term "lessee", as employed in HRS §514A-20, means a person with a lease for a period exceeding one year and the approval of Appellants, who are month-to-month tenants, is not required in order to submit the subject property to the horizontal property regime pursuant to HRS §514A-20.

2. In a Settlement Agreement dated November 26, 1979, a copy of which has been furnished the Commission, Board of Land and Natural Resources ("Land Board"), Manoa Finance Company, Inc., a Hawaii corporation, and Manoa Estates Partners, Ltd., a Hawaii Limited Partnership, agreed in essence as follows regarding an alleged violation of Chapter 181, HRS (infringement of Conservation District without the Department of Land and Natural Resources' approval):

(a) That MANOA FINANCE shall pay to the STATE OF HAWAII, at the Office of its DEPARTMENT OF LAND AND NATURAL RESOURCES, the sum of NINETEEN THOUSAND DOLLARS (\$19,000.00), representing thirty-eight (38) violations at \$500 per violation, plus the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) payable to the Department of Land and Natural Resources, representing costs and expenses incurred by the State of Hawaii.

(b) That MANOA FINANCE and MANOA ESTATES, within a reasonable time after the effective date of the Settlement Agreement, shall submit an application with the Land Use Commission, State of Hawaii, for a change in the Conservation District boundary of Tax Map Key 2-9-52:01, which Conservation District boundary shall in no event exceed the 370-foot contour level; PROVIDED, FURTHER, that approval or denial of said application for change in the Conservation District boundary of Tax Map Key 2-9-52:01 shall be obtained within eighteen (18) months of the effective date of

the Settlement Agreement; SUBJECT, HOWEVER, to such extension or extensions of time as shall be granted by the Land Board upon application of MANOA FINANCE and/or MANOA ESTATES, wherein good, just and reasonable cause for such extension of time may be shown.

(c) That in the event the application for change in the Conservation District boundary of Tax Map Key 2-9-52:01 is denied by the Land Use Commission, MANOA FINANCE and MANOA ESTATES, within a reasonable time not to exceed 6 months after such denial by the Land Use Commission, shall submit for approval by the Board of Land and Natural Resources, pursuant to Land Department Regulation No. 4, a conservation district use application for its proposed Horizontal Property Regime covering said Tax Map Key 2-9-52:01 and, in the alternative, for the following structures and improvements presently existing on said real property: (a) structure Nos. 15, 16, 21 through 26, 28 and 27; (b) retaining wall for structure Nos. 15, 16 and 19 through 29; (c) access for structure Nos. 15 through 18 and 22 through 26; (d) detached carports for structure Nos. 25 through 29; and (e) the drainage ditch system.

(d) That the Agreement shall in no manner guarantee approval by the Board of Land and Natural Resources of any conservation district use application covering Tax Map Key 2-9-52:01 submitted by MANOA FINANCE and MANOA ESTATES, and all conservation district use applications covering said Tax Map Key 2-9-52:01 shall be processed, reviewed and either approved or denied by the Land Board on the merits of each application.

(e) That in the event the Conservation District use application for both the Horizontal Property Regime and the presently existing structures and improvements are denied by the Board of Land and Natural Resources and, furthermore, should the Land Board require that those structures and improvements determined by the Land Board to be in violation of Land Department Regulation No. 4 be removed and the land restored to its original condition or as close thereto as possible, all at the landowners costs and expenses, such determination by the Land Board shall be final and binding upon the parties and, MANOA FINANCE and MANOA ESTATES shall comply with the Land Board's requirement for removal and restoration without challenging or litigating the Board's decision. In the event the Land Board denies the Conservation District Use Application for both the Horizontal Property Regime and the presently existing structures and improvements as hereinabove contemplated and, furthermore, determines that removal of structures and improvements in violation of Land Department Regulation No. 4 shall be required, The Land Board shall consider the purposes and intentions of Land Department Regulation No. 4.

3. The aforesaid First Amendment to Declaration of Horizontal Property Regime and By-Laws of Manoa Estates, at item 9 on page 8 thereof, adds a paragraph 22 to the end of the Declaration. It is entitled "Possible Diminution To Less Than 52 Dwellings" and reads as follows:

"The Department of Land and Natural Resources of the State of Hawaii at its meeting on June 22, 1979, determined that fifteen (15) dwelling structures (Nos. 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29), retaining walls surrounding or partially surrounding certain of those structures, access to certain of those structures, carports next to certain of those structures and a concrete drainage ditch be either partially or wholly within conservation district without the Department of Land and Natural Resources' approval. The Department of Land and Natural Resources has requested that the Department of the Attorney General prosecute the violation and seek fines for the alleged violation of Chapter 183, HRS and seek removal of all structures, retaining walls, access, detached carports and the concrete drainage ditch.

(a) The Owner and the Developer herein represent that in the event a fine is levied for any of the aforesaid alleged violations, it shall not become a charge upon the Horizontal Property Regime established hereunder or against the Association of Dwelling Owners of Manoa Estates or a Dwelling Owner other than Owner and Developer and that the Owner hereunder will defend and indemnify and hold harmless the Association of Dwelling Owners and the said other Dwelling Owners from and against such fines.

(b) In the event that as a result of the alleged violations, the aforesaid structures or any one or more of them are removed, then and in that event the remaining structures (dwellings hereunder) will be reconstituted as a Horizontal Property Regime (condominium) with a correspondingly lesser number of dwellings than 52. In that event the percentage interest in the common elements of the Project appertaining to each dwelling shall be revised. The method for calculation if necessary, shall be to ascertain the total floor area (living area) of all remaining dwellings and the floor area of each individual dwelling and using the total floor area as the denominator and the floor area of each individual dwelling as the numerator determine the percentage interest carried to the number of decimal points necessary so that when the percentage interest of all individual dwellings (regardless of the number of dwellings) are added together they will equal 100%.

(c) In such event the removed dwellings shall no longer be dwellings hereunder or for purposes of Chapter 514A of the Hawaii Revised Statutes, as amended, and the Owner of such removed dwelling shall not be entitled to any compensation or damages from the Association or the other dwelling owners, nor may they seek to partition the property in accordance with Hawaii Revised Statutes Section 514A-21 or in any other manner."

In addition to the foregoing, said First Amendment to the Declaration and By-Laws recorded on November 27, 1979 revised many other sections of the original Declaration and By-Laws recorded on April 30, 1979, including but not limited to the

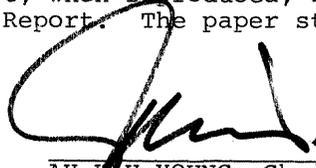
Description of the Project and Condominium Map, Common Interest, Bonds, Insurance, Proxies and Meetings. Such changes supercede anything to the contrary that may be stated in the Commission's Preliminary Report, so a close scrutiny of the Declaration, as amended, is encouraged.

4. By letter dated December 5, 1979, Manoa Finance Company and Manoa Estates Partners, Ltd. informed the Real Estate Commission that they would comply with the requirements of the Settlement Agreement referred to in 2. above and that no sales of units 15-29 would be made prior to fulfillment of the requirements therein.

To further update the status of this Project the Commission requested additional information of the Developer. By letter dated December 18, 1979, the Developer advised that (1) renovations were started in March, 1979 and should be completed by March, 1980, with closings to occur after completion of each unit's renovation; (2) no renovations will take place on Units 15-29 and no Sales Contract therefor will become effective until the Settlement Agreement has been complied with; (3) financing for purchasers is anticipated from either American Savings and Loan or other sources to be arranged by the Developer, including possible Agreements of Sale; and (4) only 6 units are still occupied by month-to-month tenants but the Developer presently anticipates that these parties will vacate their units within 30 days.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Owner in the required Notice of Intention submitted on February 27, 1979 and information subsequently filed as of January 15, 1980.

This Final Horizontal Property Regimes (condominium) Public Report is made a part of Registration No. 1097, filed with the Commission on February 27, 1979. The Report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

(for)

Distribution:

Department of Taxation
Bureau of Conveyances
Planning Department, City and County of Honolulu
Federal Housing Administration
Escrow Agent

Registration No. 1097

January 29, 1980