

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

MOUNT THOMAS
Liholiho Street
Wailuku, Maui, Hawaii

REGISTRATION NO. 1169

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: August 25, 1980
Expires: September 25, 1981

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 and prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED ON SEPTEMBER 6, 1979, AND INFORMATION SUBSEQUENTLY FILED ON AUGUST 18, 1980. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF THEIR INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report on October 24, 1979, the Developer reports that changes have been made in the project. The changes made are determined to be material amendments to the information disclosed earlier.

2. Since the submission of the required Notice of Intention, the Developer has prepared and forwarded additional information.

This Final Public Report is made a part of the registration on the MOUNT THOMAS condominium project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for Horizontal Property Regime Public Report from each purchaser is also the responsibility of the Developer.

3. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.
4. The Commission has determined that the basic documents (Amended Enabling Declaration Establishing A Plan For Condominium Ownership, Amended By-Laws of the Association of Apartment Owners and a Report of the Approved Floor Plans) have been filed in the office of the recording officer.

The Enabling Declaration Establishing A Plan For Condominium Ownership, dated January 8, 1980, with the By-Laws of the Association of Apartment Owners, was filed with the Bureau of Conveyances of the State of Hawaii in Liber 14564 on Page 435, on March 11, 1980, and the Amended Enabling Declaration Establishing A Plan For Condominium Ownership, dated May 28, 1980, with the Amended By-Laws of the Association of Apartment Owners was filed with the said Bureau of Conveyances in Liber 14758 on Page 46, on May 28, 1980.

The Registrar of said Bureau of Conveyances had designated Condominium Map Number 692 to the project.

5. No advertising or promotional material has been submitted pursuant to the rules and regulations promulgated by the Commission.
6. Purchasers or prospective purchasers are advised to acquaint themselves with the provisions of Chapter 514A, Hawaii Revised Statutes, and the condominium rules and regulations which relates to Horizontal Property Regimes.
7. This Final Public Report automatically expires thirteen (13) months after date of issuance, August 25, 1980, unless a Supplementary Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

This Final Public Report amends the Commission's Preliminary Public Report, and is made a part of registration on MOUNT THOMAS condominium project.

The Preliminary Public Report, issued October 24, 1979, has not been disturbed except for the following:

LOCATION: A parcel of land, having a total area of 27,523 square feet, in fee simple, to be committed to the regime, is situate at Liholiho Street, Wailuku, Island and County of Maui, State of Hawaii.

TAX KEY: Second Taxation Division, 3-8-37-20 and 21. The two parcels were consolidated with approval of the County of Maui. A new description of the said consolidated lot is attached to the Amended Enabling Declaration Establishing A Plan For Condominium Ownership.

DESCRIPTION: The Amended Enabling Declaration Establishing a Plan for Condominium Ownership (Amended Declaration of Horizontal Property Regime) reflects that the project is to consist of thirty-two (32) separately designated and legally described fee simple estates, constructed principally of concrete and hollow concrete blocks, being the area or space contained in the perimeter walls of each of the units in one four-story building. The Amended Declaration also reflects that there are forty-two (42) covered and uncovered parking stalls, 32 of which shall be assigned and the remaining unassigned.

The thirty-two (32) individual apartments shall be within one (1) four-story building. The size of each apartment's living room area, by model type, is as follows:

<u>Model Type</u>	<u>Floor Area</u>
A	888 square feet
B	742 square feet
C	724 square feet
C-1	751 square feet, (includes 27 square feet lanai)
D	537 square feet, (includes 27 square feet lanai)

The number of each apartment, its model type as shown on the condominium map, and the number of bedrooms within each unit are as follows (Floor level for all apartments are reflected in the first digit of each apartment number, except for the fourth floor level which shall be designated by the letters PH):

<u>Unit Number</u>	<u>Model Type</u>	<u>Number of Bedrooms</u>
101	A	2 bedroom, 2 bath
201	A	2 bedroom, 2 bath
301	A	2 bedroom, 2 bath
PH1	A	2 bedroom, 2 bath
102	A	2 bedroom, 2 bath
202	A	2 bedroom, 2 bath
302	A	2 bedroom, 2 bath
PH2	A	2 bedroom, 2 bath

103	A	2 bedroom, 2 bath
203	A	2 bedroom, 2 bath
303	A	2 bedroom, 2 bath
PH3	A	2 bedroom, 2 bath
104	C	2 bedroom, 1 1/2 bath
204	C	2 bedroom, 1 1/2 bath
304	C	2 bedroom, 1 1/2 bath
PH4	C	2 bedroom, 1 1/2 bath
105	D	1 bedroom, 1 bath, with lanai
205	D	1 bedroom, 1 bath, with lanai
305	D	1 bedroom, 1 bath, with lanai
PH5	D	1 bedroom, 1 bath, with lanai
106	B	2 bedroom, 1 1/2 bath
206	B	2 bedroom, 1 1/2 bath
306	B	2 bedroom, 1 1/2 bath
PH6	B	2 bedroom, 1 1/2 bath
107	B	2 bedroom, 1 1/2 bath
207	B	2 bedroom, 1 1/2 bath
307	B	2 bedroom, 1 1/2 bath
PH7	B	2 bedroom, 1 1/2 bath
108	C-1	2 bedroom, 1 1/2 bath, with lanai
208	C-1	2 bedroom, 1 1/2 bath, with lanai
308	C-1	2 bedroom, 1 1/2 bath, with lanai
PH8	C-1	2 bedroom, 1 1/2 bath, with lanai

There are eight apartments on each floor, and the apartments on each floor will be numbered and identified from east to west in sequence, with the apartments having the last digit of "1" located on the east end.

The immediate common elements to which each apartment has access will be the corridor, hall or passageway.

INTEREST TO BE CONVEYED PURCHASER: The undivided interest in the "common areas and facilities" which shall be conveyed with each respective "apartment" as well as their proportionate representation for voting purposes in the Association of Apartment Owners by model type, is as follows:

<u>Model Type</u>	<u>Number of Units of Each Model Type</u>	<u>Common Interest</u>
A	12	3.60%
B	8	3.01%
C	4	2.95%
C-1	4	3.04%
D	4	2.19%

The above respective undivided interests established and to be conveyed with the respective "apartments" as indicated above, cannot be changed, and Owner-Developer, its successors and assigns, and grantees, covenant and agree that the undivided interest in the "common areas and facilities" and the fee titles to the respective "apartments" conveyed therewith, shall not be separate or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective "apartments" even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the "apartment".

ENCUMBRANCES AGAINST TITLE: The Preliminary Report issued by Title Guaranty of Hawaii, Inc., dated July 31, 1980, provides that the following are encumbrances against title to the property:

1. For any taxes that may be due and owing and a lien on the land, reference is made to the Office of the Tax Assessor of the Second Taxation Division, County of Maui, State of Hawaii.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Grant in favor of Maui Electric Company, Limited, and Hawaiian Telephone Company, dated December 4, 1961, recorded in Liber 4181 at Page 276; granting the right of ingress and egress across each lot of the subdivision shown on File Plan Number 709.
4. A 15-foot building setback line fronting Liholiho Street as shown on File Plan Number 709.
5. A 3-foot widening setback line fronting Liholiho Street as shown on map prepared by Robert T. Tanaka, registered professional surveyor, dated May 15, 1979.
6. Restrictive covenants contained in deeds dated April 6, 1964, recorded in Liber 4725 at Page 582, dated April 11, 1969, recorded in Liber 6483 at Page 97 and dated July 17, 1969, recorded in Liber 6642 at Page 228.
7. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements, and other provisions set forth in Declaration of Horizontal Property Regime dated January 8, 1980, recorded in the Office of the Registrar of Conveyances at Honolulu in Liber 14564 at Page 435, and the By-Laws attached thereto, as the same are or may hereafter be amended in accordance with law, said Declaration or said By-Laws. (Project covered by Condominium Map No. 692.) Said Declaration was amended by instrument dated May 28, 1980, recorded in Liber 14758 at Page 46.
8. Subdivision Agreement (Three Lots or Less), dated November 5, 1979, recorded in Liber 14638 at Page 256, by and between Mt. Thomas Development Corporation, a Hawaii corporation, "Owner", and County of Maui, "County".

Note: The "Agreement" states in part that the Owner, its successors and assigns, shall participate in an improvement district for Liholiho Street in Wailuku, Maui, Hawaii, if and when such improvement district is proposed.

9. Mortgage made by Mt. Thomas Development Corporation, a Hawaii corporation, in favor of Dorothy K. Tagawa, widow, dated April 1, 1979, and recorded in the said Bureau of Conveyances in Liber 13878 on Page 1, and to the lien created and existing by virtue of said mortgage.

By Subordination Agreement and Limited Power of Attorney acknowledged on May 17, 1980, and recorded in Liber 14758 at Page 107, said above mortgage was subordinated to the lien of that certain Mortgage, Security Agreement and Financing Statement recorded in Liber 14758 at Page 76.

10. Mortgage, Security Agreement and Financing Statement made by Mt. Thomas Development Corporation, a Hawaii corporation, in favor of Washington Mortgage Co., Inc., a Washington corporation, dated May 28, 1980, and recorded in the said Bureau of Conveyances in Liber 14758 on Page 76, and to the lien created and existing by virtue of the said mortgage.

PURCHASE MONEY HANDLING: The specimen Contract of Sale has been revised and filed with the Commission. The revised specimen Contract of Sale states in part:

"The rights derived under this Contract of Sale are subject and subordinate to the lien rights and security interest of Washington Mortgage Co., Inc. or other institutional lender financing the construction of the project and/or financing the purchasers of the apartments therein, provided that the maximum construction loan shall not exceed the sum of \$2,000,000.00, that the loan proceeds shall be used for construction of the project, architect's fees, legal fees, surveyor's fees, and other costs for appliances and furnishings in connection with the said project, that the maximum interest rate of such construction loan shall not exceed _____ percent (%), and that the proceeds of the sale of each apartment unit first be applied towards the repayment of said construction loan until said Washington Mortgage Co., Inc. or other institutional lender financing the construction of the project has been paid in full.

Purchaser authorizes Seller to make and Purchaser hereby specifically approves any and all changes to said documents and the project as may be required by law, any title insurance company, institutional mortgage lender or governmental agency and agrees that the project architect in his sole discretion may make changes to and modify the design of said family unit or any part of the project and that Seller may make such changes as Seller deems necessary or appropriate to complete the project, including the design and materials with reference to the Purchaser's family unit and any other part of the project subject to the provisions of the paragraph on final public report herein mentioned.

Final Public Report. If at the time of execution of this contract, a Final Public Report has not been issued by the Hawaii Real Estate Commission with respect to the project, the following limitations shall apply:

(a) Purchaser's funds obtained prior to the issuance of the Final Public Report shall be refunded if there is any substantial change in the condominium building plans subsequent to the execution of this contract, which change requires the approval of the county officer having jurisdiction over the issuance of the permits for construction of buildings unless Purchaser's written approval or acceptance of the specific change is obtained or 90 days has elapsed since Purchaser has accepted in writing the apartment or he has first occupied the apartment.

(b) All rights under this contract shall not become enforceable against the Purchaser until the Purchaser has had a full opportunity to read the Hawaii Real Estate Commission's

Final Report and to obtain a refund of any moneys paid as well as release from all obligations hereunder if the Final Public Report differs in any material respect from the Preliminary Report.

(c) If the Final Public Report is not issued within one year from the date of issuance of the Preliminary Public Report and Purchaser's rights are not waived under Section 514A-66, Hawaii Revised Statutes, Purchaser shall be entitled to refund of all moneys paid by him hereunder without further obligation.

(d) All moneys paid by the Purchaser prior to the issuance of said Final Public Report shall be deposited in trust with the escrow with instructions that no disbursements shall be made from such trust fund on behalf of the Seller until this contract has become effective and the conditions of Section 514A-39, 63, 64, and 66, Hawaii Revised Statutes have been met.

Upon the occurrence of any of the above and upon the return by escrow of the payments made by Purchaser, whether or not on his request, the rights of the parties hereto under this contract shall terminate and neither party shall have any further rights or obligations in relation thereto. Whenever under the conditions hereof the escrow shall be required to return any moneys to the Purchaser, the same shall be returned without interest. If the Purchaser within five days from the mailing or delivery by Seller of a copy of said Final Public Report shall fail to acknowledge receipt thereof, or shall fail to give his written approval or acceptance of any change to any building plan if such written approval or acceptance is required, or shall fail to give his written approval or acceptance of said Final Public Report if the same differs from the Preliminary Report in any material respect, the Seller may, at its option, terminate this contract and cause the escrow to refund to Purchaser all payments previously made by Purchaser without interest, or the Seller may declare the Purchaser to be in default hereunder with the rights in the event of default to become then applicable."

MANAGEMENT OF THE PROJECT: The Amended By-Laws which are incorporated in the Amended Declaration, provide that the operation of the project shall be conducted for the Association of Apartment Owners, under the direction of the Board of Directors, by a responsible Managing Agent. The Developer has appointed, as initial managing agent for the project, Toshi Domae Realty, 1351 Lower Main Street, Suite 2, Wailuku, Maui, Hawaii 96793, pursuant to agreement dated February 14, 1980.

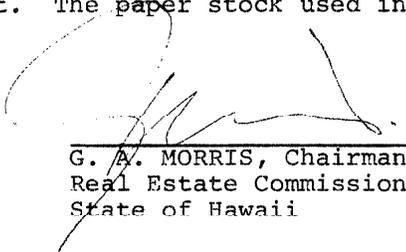
STATUS OF PROJECT: The Developer entered into a contract dated January 21, 1980, with E. T. Ige Construction, Inc. for the construction of the project. Said contract states that the project shall be substantially completed on or about February 28, 1981.

The purchaser or prospective purchaser should be cognizant of the fact that this report represents information disclosed by

the Developer in the required Notice of Intention submitted September 6, 1979, information subsequently filed as of October 18, 1979, and additional information filed as of August 18, 1980.

THIS FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1169, filed with the Commission on September 6, 1979.

This Report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



G. A. MORRIS, Chairman
Real Estate Commission
State of Hawaii

Distribution:

Department of Taxation
Planning Department, County of Maui
Escrow Agent
Federal Housing Administration
Bureau of Conveyances

REGISTRATION NO. 1169

Date: August 25, 1980