

# 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

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 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: October 24, 1979  
Expires: November 24, 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 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 OCTOBER 18, 1979. 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. The MOUNT THOMAS condominium is a proposed fee simple condominium project consisting of thirty-two (32) dwelling units contained in one (1) four-story residential apartment building. Thirty-two (32) assigned parking stalls are available, and ten (10) unassigned parking stalls are also available, making a total of forty-two (42) parking stalls. There shall be thirty-one (31) uncovered and eleven (11) covered 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 (Proposed Enabling Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the Proposed Floor Plans, as revised) have not been filed in the Office of the recording officer.
4. No advertising or promotional matter has 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 514A, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, October 24, 1979, unless 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: MOUNT THOMAS

LOCATION: Two parcels of land, 15,896 square feet and 11,627 square feet, having a total area of 27,523 square feet, in fee simple, to be committed to the regime, are situate at Liholiho Street, Wailuku, Island and County of Maui, State of Hawaii.

TAX KEY: Second Taxation Division, 3-8-37-20 and 21

ZONING: Apartment (A-2), County of Maui

DEVELOPER: Mt. Thomas Development Corporation, a Hawaii corporation, is the Developer. The place of business of the corporation is 471 Liholiho Street, Wailuku, Maui, Hawaii 96793. The telephone number is 244-5240.

ATTORNEY REPRESENTING DEVELOPER: Ueoka & Luna, 2103 Wells Street, Wailuku, Maui, Hawaii 96793. Telephone: 244-7914. (Attention: Meyer M. Ueoka, Esq.)

DESCRIPTION: The proposed Enabling Declaration Establishing a Plan for Condominium Ownership (Declaration of Horizontal Property Regime) reflects that the project is to consist of thirty-two (32) separately designated and legally described fee simple estates, being the area or space contained in the perimeter walls of each of the units in one four-story building. The proposed 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	880 square feet
B	733 square feet
C	738 square feet
C-1	738 square feet
D	532 square feet

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):

<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-1	2 bedroom, 1 1/2 bath
204	C-1	2 bedroom, 1 1/2 bath
304	C-1	2 bedroom, 1 1/2 bath
PH4	C-1	2 bedroom, 1 1/2 bath
105	D	1 bedroom, 1 bath
205	D	1 bedroom, 1 bath
305	D	1 bedroom, 1 bath
PH5	D	1 bedroom, 1 bath
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	2 bedroom, 1 1/2 bath
208	C	2 bedroom, 1 1/2 bath
308	C	2 bedroom, 1 1/2 bath
PH8	C	2 bedroom, 1 1/2 bath

COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime identifies the following as common elements:

- (1) undivided fee simple interest in the land;
- (2) the foundations, beams and supports, girders, walls, roofs, main walls, bearing walls, floors and ceilings, entrances and exits, walkways, planters, staircases, lobbies, and halls of said building;
- (3) parking area, forty-two (42) parking stalls (eleven (11) covered and thirty-one (31) uncovered), of which thirty-two (32) are assigned, yards, and refuse area;
- (4) elevator, solar system, all ducts, electrical equipment, wiring and other central and appurtenant installations for services, including power, light, water, disposal, telephone, water tanks and pumps or the like, or other public utility lines, and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the buildings.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called and designated "limited common elements" in the proposed Declaration are set aside and reserved for the exclusive use of certain apartments and such apartments will have appurtenant thereto an exclusive easement for the use of such limited common elements. Said limited common elements set aside and reserved are as follows:

- (1) corridor, hall or passageway to each apartment, and
- (2) assigned parking stalls which are appurtenant to each of the apartments as shown below.

<u>UNIT NUMBER</u>	<u>ASSIGNED PARKING STALL NUMBER</u>	<u>UNIT NUMBER</u>	<u>ASSIGNED PARKING STALL NUMBER</u>
101	21 (covered)	105	36
201	16 (covered)	205	35
301	13 (covered)	305	34
PH1	12 (covered)	PH5	33
102	22	106	27
202	20 (covered)	206	28
302	17 (covered)	306	3
PH2	14 (covered)	PH6	7
103	10	107	26
203	19 (covered)	207	29
303	18 (covered)	307	4
PH3	15 (covered)	PH7	8
104	37	108	2
204	32	208	30
304	31	308	5
PH4	6	PH8	9

INTEREST TO BE CONVEYED PURCHASER: The proposed Declaration reflects that percentage of the undivided interest in the common elements pertaining to each apartment and its owner for all purposes, including voting, 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	3.59%
B	8	2.99%
C	4	3.05%
C-1	4	3.05%
D	4	2.15%

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration states that the "apartment spaces" shall be occupied and used by the respective owners only as provided by the laws of the State of Hawaii and ordinances of the County of Maui and for no other purpose.

The Proposed House Rules state in part that household pets shall not be kept in the apartments without the written approval of the Board of Directors of the Association of Owners.

OWNERSHIP TO TITLE: A Preliminary Title Report prepared on October 12, 1979 by the licensed title abstractor, Title Guaranty of Hawaii, Inc., verifies that title to the land is vested in Mt. Thomas Development Corporation.

ENCUMBRANCES AGAINST TITLE: The title report identifies the following:

1. Real property taxes. Reference is made to the Office of the Tax Assessor, Second Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. A 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 No. 709.
4. A 15-foot building setback line fronting Liholiho Street, as shown on File Plan No. 709.
5. Restrictive covenants contained in deeds recorded in Liber 4725 at Page 582, Liber 6483 at Page 97 and Liber 6642 at Page 228.
6. Mortgage made by Mt. Thomas Development Corporation, a Hawaii corporation, in favor of Dorothy K. Tagawa, a widow, dated April 1, 1979, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13878 on Page 1 in the amount of \$300,000.00.

PURCHASE MONEY HANDLING: A copy of an Escrow Agreement dated August 8, 1979, has been executed and filed with the Commission. The Escrow Agent is Title Guaranty Escrow Services, Inc. Upon examination, the executed Escrow Agreement is found to be in consonance with the provisions of Chapter 514A, particularly, Sections 514A-37, 514A-39, and 514A-63 through 514A-65, Hawaii Revised Statutes. The Escrow Agreement states in part:

"No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled: (a) The Real Estate Commission shall have issued a Final Report on the Project; provided, however, to the extent any sales contracts are entered into and a purchaser's funds are obtained prior to the issuance of a Final Public Report of the Real Estate Commission, no disbursements shall be made from such purchaser's funds until (i) such Final Public Report shall have been issued; and (ii) the purchaser shall have been given a copy of said Final Report, shall have acknowledged receipt of same, and either forty-eight (48) hours shall have elapsed since such receipt or Developer's attorney shall have delivered a written opinion to Escrow that the purchaser's sales contract has become effective; (b) The Developer's attorney shall have delivered a written opinion to Escrow stating that the requirements of Sections 514A-39, 514A-63, 514A-64, and 514A-66, Hawaii Revised Statutes, as amended, have been met; and (c) The Developer shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract.

Subject to the provisions of the preceding paragraph, disbursements from the funds held in escrow may be made by Escrow from time to time and for a mutually acceptable fee payable by the Developer as follows, each such disbursement to be approved by the Developer in writing prior to disbursement: (a) To pay for construction costs of the buildings and other improvements and fixtures in such amounts and at such times and in proportion to the valuation of the work completed by the contractor in accordance with the terms of the construction contract, as certified by a registered architect or professional engineer and as approved by Developer's mortgagee or a financially disinterested person who shall be designated in writing by the Developer and Developer's mortgagee, if any, and who shall certify to Escrow in writing that he is financially disinterested (and Escrow shall have the right to rely on said certification); (b) To other persons for architectural, engineering, finance, advertising and legal fees and other incidental expenses of the Project (but not selling expenses or brokerage fees relating to sales of any apartments) to the extent approved by the Developer's mortgagee or said financially disinterested person; and (c) The balance of monies remaining in escrow shall be disbursed in accordance with the directions of the Developer and Developer's mortgagee or said financially disinterested person only upon completion of the buildings of the Project and when Escrow shall have received satisfactory evidence that all mechanics' and materialmen's liens have been cleared or sufficient funds have been set aside to cover claims if liens are filed; otherwise, forty-six (46) days after the filing of the affidavit of publication of notice of completion in the office of the clerk of the circuit court where the Project is located, a copy of which shall have been delivered to Escrow; provided, further, that if any notice of mechanics' or materialmen's liens shall have been filed, the funds shall be disbursed only when such liens have been cleared or sufficient funds have been set aside to cover such claims.

A purchaser shall be entitled to a return of his funds, and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred: (a) Developer and the purchaser shall have requested Escrow to return to purchaser the funds of purchaser held hereunder by Escrow; or (b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or (c) With respect to a Purchaser whose funds were obtained prior to the issuance of the Final Report, there shall have been a change in the building plans requiring approval of a county officer having jurisdiction over the issuance of building permits (except such changes as are specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or to which said purchaser has otherwise consented in writing); or (d) The Final Report differs in a material respect from the Preliminary Report, and the purchaser's written approval of such change shall not have been obtained; or (e) The Final Report shall not have been issued within one (1) year from the date of issuance of the Preliminary Report and the purchaser has not waived his right to a refund.

In any of the foregoing events, Escrow shall, upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from purchaser upon the occurrence of an event described in (c), (d) or (e) above, pay said funds to said purchaser and thereupon said sales contract and any coveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held hereunder; provided, however, that no refund shall be made to a purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund."

The specimen Contract of Sale also states in part:

"Lien and Security Interest. The rights derived under this Contract of Sale are subject and subordinate to the lien rights and security interest of the lending institution financing the construction of the project and/or the financing of the purchases of the apartments therein."

It is incumbent upon the purchaser and prospective purchaser that he reads the Contract of Sale and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of dwelling units and funds from other sources are placed in trust, as well as the retention and disbursement of said trust funds.

MANAGEMENT AND OPERATIONS: Administration of the project, as stated in the Proposed Declaration, will be vested in the Association of Apartment Owners. The proposed By-Laws of the Association of Apartment Owners grant the Board of Directors the powers and duties necessary for the administration of the affairs of the Association. The Board of Directors shall employ for the Association a management agent or manager.

STATUS OF PROJECT: Construction of the project has not yet begun, but it is anticipated that it shall commence on or about October 1, 1979, as per the Notice of Intention submitted by the developer. As yet, the developer has not entered into a construction contract for the construction of buildings.

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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 on September 6, 1979, and information subsequently filed on October 18, 1979.

The PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1169, filed with the Commission on September 6, 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 yellow in color.

  
for \_\_\_\_\_  
AH KAU YOUNG, Chairman  
Real Estate Commission  
State of Hawaii

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

REGISTRATION NO. 1169

DATE: October 24, 1979