

# 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

MAUI KAMAOLE  
2777 South Kihei Road  
Kihei, Maui, Hawaii

REGISTRATION NO. 1186

### **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: November 9, 1979

Expires: December 9, 1980

#### SPECIAL ATTENTION

A comprehensive reading of this report by the prospective buyer is urged in order that personal requirements and expectations 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 OCTOBER 17, 1979 AND INFORMATION SUBSEQUENTLY SUBMITTED AS OF NOVEMBER 2, 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).

1. MAUI KAMAOLE is a proposed fee simple condominium project consisting of 316 apartment units in 13 separate buildings. There will be 395 unassigned, uncovered parking stalls for use by owners and visitors to the project. Buyers will receive an apartment deed granting a fee simple interest directly from the Developer.

2. The Developer of the project has filed all documents and material deemed necessary by the Commission for the registration of this proposed condominium project and issuance of this Preliminary Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime, Bylaws of the Association of Apartment Owners and Condominium will be filed in the office of the recording officer immediately prior to the application for a Final Public Report.
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 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 Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration of MAUI KAMAOLE condominium project. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) and the Disclosure Abstract in the hands of all purchasers and prospective purchasers and obtaining a receipt therefor.
7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, November 9, 1979, unless a Final or 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: MAUI KAMAOLE

LOCATION: The site, comprising approximately 23.32 acres, is located at Kamaole, District of Kula, County of Maui, State of Hawaii. Access to the site from South Kihei Road is over two easements from the State of Hawaii. The Developer has requested that the State sell Developer the land affected by the easements. If the land is purchased, it will become part of the project. If a sale is not consummated, the easement will be held in a trust for the use and benefit of apartment owners.

TAX MAP KEY: 3-9-04:82 and 83 (Second Division)

ZONING: County of Maui A-1

DEVELOPER: The Developer is Maui Kamaole Enterprises, a Hawaii general partnership, whose address is 165 South King Street, Suite 1100, Honolulu, Hawaii 96813. The telephone number is 536-7261. The general partners of the Developer are two Hawaii limited partnerships, Maui Kamaole Enterprises I and Maui Kamaole Enterprises II, the addresses of which are 1100 First Hawaiian Bank Building, 165 South King Street, Honolulu, Hawaii 96813, (phone 536-7261). The general partners of the limited partnerships are Genera Hawaii Commerce Corp., a Hawaii corporation, whose address is 1100 First Hawaiian Bank Building, 165 South King Street, Honolulu, Hawaii 96813, (phone 808-536-7261), and J. Gordon Gibson, 1171 Melville Street, Vancouver, British Columbia, U6E 2X5 (phone 604-685-8441).

ATTORNEY REPRESENTING OWNER: Case, Kay & Lynch (Attention: Gary L. Wixom, Esq.), Suite 1100, 165 South King Street, P.O. Box 494, Honolulu, Hawaii 96809, Telephone: (808) 536-7261.

DESCRIPTION AND DIVISION OF PROJECT. The Developers states that the Project will contain 316 separate condominium apartments contained in 13 buildings grouped adjacent to 13 parking areas. Recreational facilities will include 2 tennis courts and 2 swimming pools. The Project and the apartments are more particularly described in Exhibit "A" attached hereto.

LIMITS OF APARTMENTS: Each apartment shall be deemed to include: (i) any adjacent lanai to which such apartment has direct, exclusive access, except that the enclosed courtyards off the bedrooms of the type "A" and "B" apartments are limited common elements, (ii) all the walls and partitions which are not load-bearing within its perimeter walls, (iii) the inner decorated or finished surfaces of all walls, floors and ceilings, (iv) any doors, windows or panels along the perimeters, and (v) all fixtures originally installed therein. The respective apartments shall not be deemed to include: (a) the undecorated or unfinished surfaces of the perimeter walls, the interior load-bearing walls, or the party walls, (b) the undecorated or unfinished floors and ceilings surrounding each apartment, or (c) any pipes, shafts, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided.

COMMON ELEMENTS: The remaining portions of the project are designated as "common elements," including specifically but not limited to:

- a. The land in fee simple.
- b. All foundations, columns, girders, beams, floor slabs, supports, perimeter walls, load bearing walls, floors, ceilings (except the inner or decorated surfaces of the perimeter walls, load bearing walls, floors and ceilings), roof, corridors, stairs and stairways, fire escapes, entrances and exits of the building or buildings.
- c. All yards, gardens, planters, plants, refuse facilities, driveways, walkways, parking areas, mail boxes, equipment rooms, office, tenant storage room and recreational facilities, including two swimming pools, two tennis courts, sun decks, trellised lanai and building containing a refreshment area with serving counter, men's and women's toilets, manager's office and service area, storage and maintenance rooms.
- d. All tanks, pumps, motors, fans, compressors, other equipment and installations for common use or benefit.
- e. All ducts, pipes, wiring, electrical and other central and appurtenant transmission facilities and installations which serve more than one apartment for services such as electrical power, water, sewer, telephone and television signal distribution.
- f. Any and all other parts of the property, apparatus and installations for common use or necessary or convenient to the project's existence, maintenance or safety and normally in common use and all elements mentioned in the Act actually constructed on the land described herein.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called "limited common elements" are designated and set aside for the use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements as follows:

a. Each apartment shall have appurtenant to it the exclusive right to use a mail box in the mail facilities located as shown on the Condominium File Plan.

b. The walled, open-air courtyard adjacent to the bedroom of each type "A" and "B" apartment, as shown on the proposed Condominium File Plan, shall be appurtenant to and for the exclusive use of such apartment.

c. The partially screened yard area adjacent to the lanai of each ground level apartment shall be appurtenant to and for the exclusive use of each apartment.

d. The planter boxes adjacent to the lower floor of each of the two-bedroom apartments shall be appurtenant to and for the exclusive use of the apartment which they adjoin.

e. All panels for solar water heaters and pipes connecting such panels to water tanks or heaters shall be appurtenant to the apartment served thereby.

f. All other common elements of the project which are rationally related to less than all of the apartments shall be limited to the use of such apartments or buildings.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided interest in all the common elements of the project (herein called the "common interest") and the same proportionate share in the common expenses of the project as shown on Exhibit B attached hereto. Interests in each apartment will be conveyed to each buyer under an apartment deed. If a land trust is established for access to the Project, each apartment owner will own shares in proportion to his common interest.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments shall be occupied and used as permanent or temporary residences and for any other purpose permitted by applicable laws. Portions of the common elements may be used for various commercial uses for the benefit of apartment owners and their tenants and guests, such as food and drink service, tennis and swimming instruction, etc., as determined by the Board of Directors in accordance with the Bylaws.

The proposed Project Rules state, in part: (1) Occupancy is limited to not more than two (2) persons per bedroom contained in each apartment, except that this occupancy may be exceeded by members of the immediate family of the owner, tenant or lessee, provided that in no event shall the number of occupants be more than three (3) per bedroom; (2) No fires or barbecuing will be permitted on any apartment lanai; and (3) only small dogs (less than 12 inches in height), cats, fish and small birds may be kept on the premises without prior written consent from the Board, and no consent will be granted rabbits, monkeys, hamsters, parrots, rodents, poultry, or more than one pet.

OWNERSHIP OF TITLE: A commitment for title insurance issued by First American Title Insurance Company on September 27, 1979, shows that title to the parcel with Tax Map Key No. 3-9-04:82 is owned by Maui Ocean View Associates, a Hawaii limited partnership, subject to an Agreement of Sale with Edger D. Kerr and United Realty, Inc., as purchaser, and subject to a Sub-Agreement of Sale to Maui Kamaole Enterprises I, a general partner of the Developer, as purchaser. The parcel with Tax Map Key No. 3-9-04:83 is owned by Maui Kamaole Enterprises II, a general partner of the Developer. Thus, the two parcels that will comprise the land of the Project are owned by the two Limited Partnerships that together form the Developer and General Partnership, Maui Kamaole Enterprises.

ENCUMBRANCES AGAINST TITLE: Said title report as amended on November 1, 1979 identifies the following encumbrances on the land committed to the project:

A. As to the parcel with Tax Map Key No. 3-9-04:82:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Second Division.
2. Waterline easement (15 feet wide) in favor of the Department of Water Supply.
3. Agreement of Sale

Seller: Maui Ocean View Associates, a Hawaii limited partnership

Purchaser: Edgar D. Kerr, an individual, and United Realty Inc., a Hawaii corporation

Dated: June 10, 1977

Recorded: Liber 12315, Page 127

Reference is made to said instrument for terms, conditions, restrictions, reservations, provisions, etc...

4. Sub-Agreement of Sale

Seller: Edgar D. Kerr, husband of Ingrid Kerr, and United Realty, Inc., a Hawaii corporation

Purchaser: Maui Kamaole Enterprises I, a Hawaii limited partnership

Dated: October 18, 1978

Recorded: Liber 13391, Page 200

Reference is made to said instrument for terms, conditions, restrictions, reservations, provisions, etc...

B. As to the parcel with Tax Map Key No. 3-9-04:83:

1. For any taxes that may be due and owing reference is made to the Office of the Tax Assessor, Second Division.

2. A pipeline easement in favor of the County of Maui, being 15.00 feet wide.
3. Terms, agreements, reservations, covenants, conditions and provisions contained in Grant of Easement No. S-4441.
4. Mortgage

Mortgagor: Kamaole Enterprises II, a Hawaii limited partnership

Mortgagee: Pearson Hui, a Hawaii limited partnership

Dated: January 3, 1979

Recorded: Liber 13393, Page 735

C. As to both parcels:

Agreement between County of Maui, Department of Water Supply and Maui Kamaole Enterprises I and Maui Kamaole Enterprises II dated May 2, 1979 and recorded in Liber 13749, page 728.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated October 12, 1979, identifies First American Title Company of Hawaii, Inc., a Hawaii corporation, as Escrow Agent. On examination the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Section 514A-37, Section 514A-39 and Sections 514A-63 through Section 514A-66. A prospective purchaser should carefully examine the form of Sales Contract and the Escrow Agreement to determine the time for and the amount of the installment payments on the purchase price and his obligations to pay the closing costs. It is incumbent upon the purchaser to read and understand the Escrow Agreement before signing the Sales Contract since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's down payments and the Sales Contract provides that the purchaser approves the Escrow Agreement. Among other provisions the executed Escrow Agreement states that no money received by Escrow Agent shall be disbursed until the Seller has a valid and binding contract for the sale of the unit for which money was received and the requirements of Sections 514A-39, 514A-63, 514A-64 and 514A-66 have been met, all as provided in Section 514A-65, Hawaii Revised Statutes.

The specimen Sales Contract also states: (1) All of Buyer's right, title and interest under the Sales Agreement are and shall be subject and subordinate to the lien of any mortgages or other security instruments made by Developer to any institutional lender for the purpose of securing the repayment of a construction loan; and (2) The Developer will pass through to the Buyer a warranty agreement from the general contractor providing for the correction of any defects in the Apartment and the common elements due to faulty materials and/or workmanship which are discovered and reported within one (1) year from the date of substantial completion of the Project, any manufacturer's or dealer's warranties covering any furnishing and, fixtures or appliances installed in the apartment. Except for the foregoing, Developer makes no warranties, expressed or implied, with respect to the project or any apartment or any common elements or anything installed therein, including but not limited to warranties of merchantability, habitability, workman like construction or fitness for a particular purpose; (3) In the event a water meter (other than a temporary meter for construction) cannot be installed for the Project (i) at the time construction commences,

Developer may terminate the Contract and refund Buyer's money, or (ii) at closing of the sale, Buyer shall accept the apartment and shall waive any claims against the Developer on such account.

The specimen Sales Contract also contains, among other things, acknowledgments by each buyer: (i) that the Developer will not sponsor, arrange or promote any program for the rental or temporary use and occupancy of apartments in the Project other than apartments owned by the Developer upon completion of the Project, if any; (ii) that the buyer must make any such arrangements for his apartment, if desired, without the involvement or participation of the Developer; (iii) that the Developer has not authorized agents, salesmen or brokers to make any representations as to rental or other income from any apartment or any other economic benefit, including possible advantages from the ownership of an apartment under federal or state tax laws, to be derived from the purchase of an apartment in the Project; (iv) that the buyer acknowledges that no such representations or warranties have been made and that the Developer expressly disclaims and repudiates any representation from any source as to any possible economic benefit arising from ownership of an apartment in the Project; and (v) that until the Developer closes the sales of all the apartments in the Project, the buyer shall not enter into any agreement with any purchaser, lessee or owner of another apartment in the Project or any third party under which the buyer agrees to share rental income from apartments in the Project.

It is incumbent upon the purchaser and prospective purchaser to read with care and to understand the Escrow Agreement and Sales Agreement as both agreements provide for the benefits and obligations therein outlined.

MANAGEMENT OF THE PROJECT: The proposed Declaration of Horizontal Property Regime provides that the operation of the property shall be conducted by a responsible entity as managing agent. The initial managing agent has not yet been selected; however, the Developer has submitted to the Commission a proposed Management Agreement form showing Oihana Property Management and Sales, Inc., as "Agent".

STATUS OF PROJECT: The Developer is in the process of selecting a contractor and arranging construction financing. The date estimated for commencement of construction is June 1, 1980.

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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 OCTOBER 17, 1979 and information subsequently submitted as of NOVEMBER 2, 1979.

This PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1186 filed with the Commission on OCTOBER 17, 1979.

The report, when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles the paper stock shall be yellow in color.

  
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AH KAU YOUNG, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING DEPARTMENT, COUNTY OF MAUI  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

REGISTRATION NO. 1186

November 9, 1979

EXHIBIT "A"

PHYSICAL DESCRIPTION

A. PROJECT: The project consists of three hundred sixteen separate condominium apartments, together with the appurtenant lanai or lanais, contained in 13 buildings grouped adjacent to 13 parking areas as shown on the proposed Condominium File Plan. Each building is made up of a varying number of "modules" containing four apartments each. The modules are connected each by party walls or trellises to form a building. There is also a building containing the manager's office, a refreshment area with a serving counter, a storage room, maintenance room, and men's and women's toilet facilities. The recreational facilities include two tennis courts, a jacuzzi and two swimming pools. The buildings sit on concrete pads and are constructed primarily of wood framing with stucco exterior, gypsum board, glass and related building materials. The entries to the buildings are from the parking lots which are generally on the easterly side of the buildings. Each module of four apartments has an entrance area. The living areas of the buildings generally face westerly towards the ocean.

B. APARTMENTS: The project contains 158 one-bedroom apartments, and 158 two-bedroom apartments. All apartments are furnished with a refrigerator, stove with oven below, dishwasher, disposal, stacked washer and dryer, microwave oven, solar water heater, carpets and drapes, and ducts for television cable connection. Each module of four apartments has two apartments on the ground level, which are one-bedroom apartments. These apartments have direct access to the common elements. The second level of each module contains two, two-bedroom apartments with lofts. The two-bedroom apartments have access to a common entry and stairway in the middle of each module which leads to the ground level. The location of each apartment in the project may be determined by reference to its apartment number. There are 13 clusters of buildings which are numbered 1 through 13 in a clockwise direction beginning with the cluster immediately north of the entrance to the project from South Kihei Road. Each apartment will be designated by a number and a letter. The apartments are numbered consecutively from 1 to 158, beginning with the ground level apartment in cluster number 1 nearest the entrance to the project and continuing in a counter clockwise direction around the project. Each set of two apartments, the one on the ground level and the one above it, will have the same number. Each number will be followed by a letter which is the panel as the floor plan of the apartment, which will be "A", "B", "C", "E", "F", or "G". For example, 1A would be the ground level apartment and 1E would be the apartment above it. There are six different floor plans. Types "A", "B" and "C" are one-bedroom units all located on the ground level. Types "E", "F" and "G" are two-bedroom units located on the second levels of the buildings. The apartment areas by type and number are as follows:

<u>Type</u>	<u>Number</u>	<u>Approximate Area in Square Feet</u>			
		<u>Living</u>	<u>Lanai</u>	<u>Gross</u>	<u>Courtyard</u>
A	114	892	132	1024	145
B	37	1085	175	1260	141
C	7	1105	323	1428	0
E	114	1092	299	1358	0
F	30	1273	344	1584	0
G	14	1313	375	1654	0

NOTE: In accordance with Hawaii practice the approximate gross areas set forth above include all of the walls and partitions, vents, shafts, ducts, and like within perimeter walls, the entirety of perimeter non-party walls and the interior half of perimeter party walls, whether load-bearing or non-load-bearing. In addition, the gross floor areas above include lanais (but not courtyards or yards) and for certain of the apartments include areas for entry space for those apartments with front doors recessed or set in from adjacent corridors. The resulting area computations thus include some areas which are common elements.

Apartments are described by type as follows:

1. Type "A". The type "A" apartment is a ground level apartment which contains a foyer and hallway, one bedroom, clothes closets and vanity, two bathrooms, a closet containing the hot water heater and stacked washer/dryer, a linen closet, a broom closet, owner's storage closet, a kitchen, a living-dining room, and lanai. In addition, the apartment includes as limited common elements an enclosed open-air courtyard adjacent to the bedroom, and a partially screened yard adjacent to the lanai.

2. Type "B". The type "B" apartment is a ground level apartment which contains a hallway, one bedroom, a dressing area, two bathrooms, a closet containing the hot water heater and stacked washer/dryer, a linen closet, broom closet, owner's storage closet, kitchen, living-dining room, and lanai. In addition the apartment includes as limited common elements a walled, open-air courtyard adjacent to the bedroom of the apartment and a partially screened yard area adjacent to the lanai.

3. Type "C". The type "C" is a ground level apartment which contains a foyer, one bedroom, dressing room, clothes closet, two bathrooms, dining room, living room, kitchen, owner's storage closet, linen closet, closet containing the water heater and stacked washer/dryer, and a lanai adjacent to the living room. In addition, the apartment includes a walled, partially covered lanai courtyard adjacent to the bedroom. A partially fenced yard adjoining the lanai off the living room is a limited common element.

4. Type "E". The type "E" apartment is located on the second level of each building and contains a foyer, one bedroom, a clothes closet, owner's storage closet, a lanai off the bedroom, one bathroom, a closet with the stacked washer and dryer, a stairway, kitchen, living-dining room, a lanai off the living room and lanai storage area on the main floor and a loft, which contains a stairway, one bedroom, a bathroom and a clothes closet. In addition, the apartment includes as a limited common element the planter boxes adjacent to the lanai off the living room.

5. Type "F". The type "F" apartment is located on the second level of each building and contains a foyer, one bedroom, clothes closet, linen closet, a closet for the stacked washer/dryer, owner's storage closet, a lanai off the bedroom, a lanai off the living room, lanai storage area, a bathroom, stairway, kitchen, living-dining room and a loft which contains a bedroom, a bathroom and a clothes closet. In addition the apartment includes as limited common element, the planter boxes located off the lanais on the second level.

6. Type "G". The type "G" apartment is located on the second level of each building and contains a foyer, a bedroom, clothes closet, owner's storage closet, bathroom, a closet containing the stacked washer/dryer, linen closet, a closet containing the water heater, stairway, kitchen, living-dining room, a lanai off the bedroom and a lanai off the living room, a lanai storage area and a loft which contains a bedroom, bathroom, a clothes closet, and a dressing room. In addition the apartment also includes as a limited common element the planter boxes located off the lanai adjacent to the living room.

End of Exhibit A

EXHIBIT "B"

COMMON INTERESTS

The undivided interests in the common elements appurtenant to each apartment by model are set forth below. Common interests have been based on approximate apartment square footages. The following common interests shall be valid and effective, whether or not the Developer's calculations of such interests are accurate or mathematically correct:

<u>Apartment Model</u>	<u>Percentage of Common Interest</u>	<u>Number of Apartments</u>	<u>Percentage Total</u>
A	0.2567%	114	29.2638%
B	0.3160%	37	11.6920%
C	0.3579%*	7	2.5054%
E	0.3405%	114	38.817%
F	0.3972%	30	11.9160%
G	0.4147%	<u>14</u>	<u>5.8058%</u>
	TOTAL	316	100.0000%

NOTE: One type "C" apartment (56C) has a common interest of 0.3580 percent.

End of Exhibit B