

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

EDEN GARDENS II
60 North Kuakini Street
Oahu, Hawaii

REGISTRATION NO. 1293

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: May 9, 1980
Expires: June 9, 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 or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED APRIL 16, 1980 AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS MAY 2, 1980. 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, AS AMENDED.

1. EDEN GARDENS II is a proposed fee simple condominium project consisting of a 3-story building, containing a total of eighteen (18) residential units and twenty-five (25) parking spaces of which five (5) spaces are compact size.

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 (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have not been recorded in the Bureau of Conveyances as of this date.

4. No advertising or promotional matter has been submitted pursuant to Chapter 514A, of the Hawaii Revised Statutes, and the 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 is made a part of the registration of EDEN GARDENS II, a condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) together with Disclosure Abstract in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for same is also the responsibility of the Developer.

7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, May 9, 1980, unless a Final or Supplementary Public Report issues or the Commission upon review of registration issues an order extending the effective period of this Preliminary Public Report.

NAME OF PROJECT: EDEN GARDENS II

LOCATION: The project is located on that certain parcel of land at 60 North Kuakini Street, Honolulu, Hawaii, and contains 15,925 square feet or thereabouts. The description of the land and the reserved easements, rights, powers and privileges of the owners are more fully set forth in the Declaration.

TAX MAP KEY: First Division, 1-7-11:09.

ZONING: A-3

DEVELOPER: The Notice of Intention reveals the Developer to be TIMBERLAND DEVELOPMENT, INC., a Hawaii corporation, 800 South Beretania Street, Third Floor, Honolulu, Hawaii 96813, Tel. No. 523-7071. The officers of the corporation are:

Thomas T. Enomoto, President
800 South Beretania Street, Third Floor
Honolulu, Hawaii 96813

Douglas K. Sonoda, Vice-President
1200 College Walk - #1N
Honolulu, Hawaii 96817

Robert A. McFarlane, Secretary
800 South Beretania Street, Third Floor
Honolulu, Hawaii 96813

Lydia Tsui, Treasurer
800 South Beretania Street, Third Floor
Honolulu, Hawaii 96813

ATTORNEY REPRESENTING DEVELOPER: MERVYN W. LEE, ATTORNEY AT LAW, and VERNON T. TASHIMA, ATTORNEY AT LAW, Suite 400, Amfac Building, 700 Bishop Street, Honolulu, Hawaii 96813, Tel. No. 521-2951.

DESCRIPTION OF PROJECT: The proposed improvements consist of a 3-story building constructed principally of reinforced concrete hollow tile masonry, glass, structural steel, aluminum and allied building materials, with eighteen (18) apartments. The parking level consists of twenty-five (25) parking stalls, B-22 through B-46, as shown on the Condominium Map. Above the parking level, there are three (3) floors of apartments. The first apartment floor consists of six (6) apartments numbered Apartment D, E, F, G, H and I. Apartments D and E are facing Ewa toward the Nuuanu Stream and Apartments F, G, H, and I are facing Mauka toward Muliwai Lane. Each of the first through third apartment floors contains six (6) similar apartment units, which are designated by the number of the floor on which the apartment is located, hyphenated with the model letter. Numbering of floors and designation of model letter as shown on the Condominium Map.

The apartments in the project are more particularly described as follows:

a. There are eighteen (18) freehold estates in the spaces within the perimeter walls, floors and ceilings of the 18 apartments in said building. The 18 apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or of the interior load-bearing walls, the floors and perimeter ceilings surrounding each apartment, or any pipes, wires, ducts, conduits, or other utility or service lines running through such apartments which are utilized for or serve more than one apartment, all of which are common elements as provided in the Declaration. Each apartment shall be deemed to include the walls and partitions which are not loadbearing and which are within its perimeter walls; doors and door frames; windows and window frames, the inner decorated or finished surfaces of walls, floors and ceilings, adjoining or connected thereto; and all fixtures originally installed therein. Notwithstanding the designation of the limits of the apartments, the square footage of each respective apartment is measured from the exterior face of exterior walls and the center line of party walls, ducts, vent shafts and the like, located within the perimeter walls.

b. The apartments designated "D" and "E" on the three apartment floors each contains a lanai, a private entry and seven (7) rooms, including two (2) full bathrooms, two (2)

bedrooms, a den, a living-dining room and a kitchen. The approximate floor area of each unit is 1,134 square feet including 87 square feet of covered lanai and 27 square feet of entry areas.

c. Apartment designated "F" on the three apartment floors each contains a private entry and seven (7) rooms, including two (2) full bathrooms, two (2) bedrooms, a den, a living-dining room and a kitchen. The approximate floor area of each unit is 1,090 square feet including 23 square feet of entry area.

d. Apartments designated "G", "H" and "I" on the three apartment floors each contains a private entry, seven (7) rooms, including two (2) full bathrooms, two (2) bedrooms, a den, a living-dining room and a kitchen. The approximate floor area of each unit is 1,080 square feet including 23 square feet of entry area.

e. Each apartment has immediate access to a corridor which leads to two (2) stairways and one (1) elevator leading to the ground floor and basement parking level of the project.

NOTE: Access to the public streets is by way of a non-exclusive easement over a portion of Lot 2, Land Court Application 140, Map 2, now constructed with EDEN GARDENS I condominium. Easement is terminable upon the improvement of Muliwai Lane into a standard City and County roadway appropriate for vehicular ingress and egress. Copy of easement agreement shall be available to purchasers and prospective purchasers for review at the Developer's or its designated agent's office and at the Real Estate Commission's office.

COMMON ELEMENTS: The proposed Declaration states that the owners of apartments will have an undivided interest in the common elements, including specifically but not limited to:

a. Said land in fee simple.

b. All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and loadbearing walls, roofs, entries, stairways, walkways, entrances and exits of said building.

c. All yards, corridors, elevators, storage rooms, recreation lanai, fences and walls, trash chute and trash room, grounds and landscaping.

d. All ramps, driveways, refuse collection area and parking areas, as designated on said Condominium Map.

e. All pipes, cables, conduits, ducts, trash chute, electrical meter room, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any.

f. Unassigned Parking Stalls Numbers B-22, B-23, B-28, B-29, B-30, B-40, B-41.

g. Any and all other apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, designated "limited common elements", are 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:

a. One (1) automobile parking space shall be assigned to each of the apartments upon the original conveyance thereof and shall be appurtenant to and for the exclusive use of such apartment. The initial parking assignment is outlined in Exhibit "A" herein attached and as shown on the Condominium Map. Each apartment shall always have at least one parking space appurtenant to it but otherwise any automobile parking space easement may be transferred from apartment to apartment in the project, as may be permitted by law.

b. Each apartment shall have the exclusive use of one (1) mailbox.

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

INTEREST TO BE CONVEYED TO PURCHASER: Each of the eighteen (18) apartments shall have appurtenant thereto an undivided percentage interest in all the common elements of the project, such interest being defined and referred to herein as the "common interest" and the same proportionate share in all common profits and expenses of the project and for all other purposes, including voting, as follows:

<u>APARTMENT NO.</u>	<u>% COMMON INTEREST</u>
1-D	5.49
1-E	5.48
1-F	5.65
1-G	5.55
1-H	5.55
1-I	5.62
2-D	5.48
2-E	5.48
2-F	5.65
2-G	5.55
2-H	5.55
2-I	5.62
3-D	5.48
3-E	5.48
3-F	5.65
3-G	5.55
3-H	5.55
3-I	5.62

TOGETHER WITH a non-exclusive easement over Easement "A", area 4,040 square feet, as set forth in that certain Grant dated August 6, 1979, filed August 16, 1979 in the Office of the Assistant Registrar of the Land Court as Document No. 958110.

NOTE: Apartment Owners shall be jointly and equally responsible with the owners of EDEN GARDENS I to keep the easement area in reasonable repair against damages arising from use and natural causes.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration states that each residential apartment shall be used primarily as a single-family residence dwelling by the respective owners, their tenants, families and domestic servants and for no other purpose. Each owner shall comply with the terms of the Declaration, By-Laws and House Rules of the Association of Apartment Owners.

NOTE: The House Rules limits occupancy to not more than two persons per bedroom, except that occupancy limit may be exceeded only with Board of Directors approval.

OWNERSHIP TO TITLE: A copy of a Preliminary Report issued by Aloha Title Co., Inc. as of March 31, 1980 reports that the title to the land is vested in LAWRENCE TAKAO MAKISHIMA and KAZUKO MAKISHIMA, husband and wife. By option agreement, Developer has obtained rights to purchase fee simple title from present owners of property.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated March 31, 1980 identifies the following encumbrances on the land committed to the project:

a. For any taxes that are due and owing, reference is made to the Office of the Tax Assessor, First Division.

b. The covenant relative to the use of Lots 8, 9, 11 and 13, as set forth in that certain Deed dated October 6, 1917, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1375, to which reference is hereby made.

c. The covenant relative to the use of Lot 7-B, as set forth in that certain Deed dated February 24, 1920, filed as Document No. 2113, to which reference is hereby made.

d. Mortgage dated January 8, 1970, between Lawrence Takao Makishima, husband of Kazuko Makishima, as Mortgagor, and Central Pacific Bank, as Mortgagee, filed as Document No. 494118.

e. Delineation of Easement for sanitary sewer purposes over and across Lot 11, as shown on Map 8, as set forth by Land Court Order No. 35055, filed May 5, 1972.

f. Grant dated February 29, 1972, in favor of THE CITY AND COUNTY OF HONOLULU, filed as Document No. 580438.

g. Declaration dated December 15, 1975, filed as Document No. 745622, to which reference is hereby made.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated April 14, 1980, identifies ALOHA TITLE CO., INC. as "Escrow". On examination, the specimen Sales Contract and Receipt and executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes.

Among other provisions the executed Escrow Agreement reflects that a purchaser shall be entitled to a refund of his funds, without interest, if any one of the following shall have occurred: (1) Escrow receives a written request from Seller to return to purchaser the funds of such purchaser then held hereunder by Escrow; or (2) if purchaser's funds were obtained prior to the issuance of a Final Public Report and if there is any changes in the building plans, subsequent to the extension of purchaser's contract, requiring approval of a county officer having jurisdiction over the issuance of permits for construction, unless the purchaser has given written approval or acceptance of the change or ninety (90) days have elapsed since the purchaser has accepted in writing, the apartment or he has first occupied the apartment; or (3) if the purchaser's funds were obtained prior to the issuance of a Final Public Report and the Final Public Report differs in any material respect from the Preliminary Public Report, unless the purchaser has given written approval or acceptance of the difference; or (4) if the Final Public Report is not issued within one (1) 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.

Among other provisions in the Specimen Sales Contract and Receipt provides: (1) that the purchaser's rights are and shall be subject and subordinate to the lien of any mortgage made to finance the cost of construction and other costs during construction; (2) that upon notification of completion by Owner, purchaser agrees to inspect and accept unit(s) (together with list of defects, if any) so long as the unit(s) are not deemed uninhabitable.

Additionally, the Sales Contract provides for the Seller, even upon possession of the units by the Purchasers, to do the following: (a) Continue construction on the site which may result in noise, dust or other annoyance to purchasers; (b) Conduct sales activity on the premises until the last unit is sold; (c) Utilize the five (5) unassigned parking spaces in the Project for parking for prospective purchasers until all units are sold; (d) Utilize the common elements for ingress-egress and showing purposes to prospective purchasers by Sellers, their representatives and agents.

It is incumbent upon the purchaser and prospective purchaser that he reads with care the Sales Contract and Receipt and the Escrow Agreement. The Escrow Agreement establishes how the proceeds from the apartment unit and all sums received from any source are placed in trust, as well as the retention and disbursement of said trust funds.

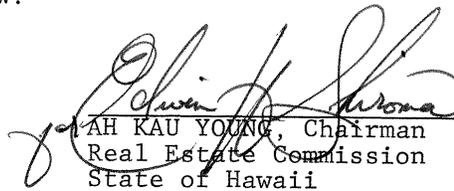
MANAGEMENT AND OPERATIONS: The By-Laws of the project states that the Board of Directors may employ for the Association of Apartment Owners, a management agent to perform such duties as the Board shall authorize, including the collection of all assessments from the owners. The Developer has entered into a contract with IND-COMM MANAGEMENT, INC., whose principal place of business and mailing address is 800 South Beretania Street, 3rd floor, Honolulu, Hawaii, as the initial managing agent.

STATUS OF PROJECT: The Developer advises the Real Estate Commission that construction of the building is expected to commence on or about June 1, 1980 (est.), and completion is expected to take place on or about November 1, 1980 (est.).

The purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted April 16, 1980, and additional information filed as of May 2, 1980.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1293 filed with the Commission on April 16, 1980.

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.


AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

Distribution:

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

REGISTRATION NO. 1293

Dated: May 9, 1980