

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

THE GARDENS
1450 South Kihei Road
Kihei, Maui, Hawaii

REGISTRATION NO. 1300
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 12, 1980
Expires: June 12, 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED April 24, 1980. THE DEVELOPER, NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAWS, HAWAII REVISED STATUTES, CHAPTER 514A.

1. THE GARDENS is a proposed fee simple condominium project containing eighty-nine (89) apartment units and one (1) resident manager's unit within seven (7) two-story buildings, consisting of fifty-one (51) one-bedrooms and thirty-nine (39) two-bedrooms and a total of one hundred thirteen (113) open and unassigned parking stalls (90 regular, 23 compact).

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 the issuance of this Preliminary Public Report.
3. No advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. 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 office of the recording officer.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes and the condominium rules and regulations which relate to horizontal property regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, May 12, 1980, unless a Supplementary or Final Public Report issues, or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of registration on THE GARDENS condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for the Preliminary Horizontal Property Regime Public Report from each such person is also the responsibility of the Developer.

NAME OF PROJECT: THE GARDENS

LOCATION: The project is located at 1450 South Kihei Road, Kihei, Maui, Hawaii, and consists of approximately 120,007 square feet of land.

TAX KEY: Second Division 3-9-09-21 and 22

ZONING: A-1, Apartment District (2 stories)

DEVELOPER: PARADISE DEVELOPERS INC., a Hawaii corporation, is the developer of the project pursuant to a Developer/Agent Agreement with United Realty, Inc. with its principal place of business at 46 Market Street, Wailuku, Hawaii 96793 and telephone number 244-3749. The officers are IVAN G. PIVAROFF, President/Treasurer; HENRY A. GOMES, Vice-President; and GWEN S. PIVAROFF, Secretary.

ATTORNEY REPRESENTING DEVELOPER: LAWRENCE N. C. ING, 2180
Main Street, Suite 419, Wailuku, Maui, Hawaii 96793;
telephone: 244-7975.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal
Property Regimes describes the project as follows:

1. Building Description. The project will consist of eighty-nine (89) residential apartment units, in seven (7) two-story buildings with 113 paved parking stalls. Each unit shall consist of the space measured horizontally by the distances between the interior half of the perimeter walls of each unit, and the space measured by the area of the lanai of each unit; and measured vertically by the distances between the topside surface of the concrete floor and the underside of the ceiling.

The principal materials of which the said buildings shall be constructed are as follows:

- a. the ground floor slab shall be of poured reinforced concrete. The second floor shall be wood sub-floor with concrete decking;
 - b. the buildings shall be of wood-frame construction with exteriors of stained, rough sawn plywood of various textures;
 - c. walls and second floor framing shall be of wood studs and joists;
 - d. internal partitions shall be of wood studs with fire rated gypsum board finish;
 - e. roof framing shall be of wood truss construction finished with concrete roof tiles;
 - f. all wood shall be termite treated;
 - g. the floors within each unit shall be covered with carpet and vinyl floor covering.
2. Limits of Apartment. Each apartment shall include all the walls and partitions within its perimeter walls; all glass windows or panels along the perimeters; the entirety of perimeter non-party walls except for the exterior decorated surfaces; the interior half of perimeter party walls; the inner decorated or finished surfaces of the floors and ceilings; the adjacent lanai to the exterior edge of the concrete floor slabs; the built-in fixtures including the range, refrigerator, garbage disposal, dishwasher, washer/dryer, water heater, sinks, bathroom fixtures, carpets and drapes; and all air space encompassed within the apartment; provided, however that the portion of each party wall and of each load bearing wall

(whether or not a party wall) which is included in any apartment is a common element (except for the inner decorated surface of said wall within said apartment, which is not a common element) and that the exterior decorated surface of each perimeter non-party wall is a common element; and provided further that any ventilation duct shafts within an apartment as shown on said condominium map is a common element.

3. Numbering of Units. Each apartment, has been given a numerical designation by which its location in the building can be determined, as follows:
 - a. Building "A"
 - (i) A-101 and A-108, being first floor end two-bedroom, dual-bath units.
 - (ii) A-102 through A-107, inclusive, being first floor interior one-bedroom, one-bath units.
 - (iii) A-201 and A-208, being second floor end two-bedroom, dual-bath units.
 - (iv) A-202 through A-207, inclusive, being second floor interior one-bedroom, one-bath units.
 - b. Building "B"
 - (i) B-101 and B-106, being first floor end two-bedroom, dual-bath units.
 - (ii) B-102 through B-105, inclusive, being first floor interior two-bedroom, dual-bath units.
 - (iii) B-201 and B-206, being second floor end two-bedroom, dual-bath units.
 - (iv) B-202 through B-205, inclusive, being second floor interior two-bedroom, dual-bath units.
 - c. Building "C"
 - (i) C-101 and C-108, being first floor end two-bedroom, dual-bath units.
 - (ii) C-102 through C-107, inclusive, being first floor interior two-bedroom, dual-bath units.
 - (iii) C-201 and C-208, being second floor end two-bedroom, dual-bath units.
 - (iv) C-202 through C-207, inclusive, being second floor interior two-bedroom, dual-bath units.
 - d. Building "D"
 - (i) D-101, being a first floor end two-bedroom, dual-bath unit.

- (ii) D-102, being a first floor interior two-bedroom, dual-bath unit.
- (iii) D-103, being a first floor interior two-bedroom, dual-bath unit.
- (iv) D-104 through D-108, inclusive, being first floor interior one-bedroom, one-bath units.
- (v) D-109, being a first floor end one-bedroom with den, dual-bath unit.
- (vi) D-201, being a second floor end two-bedroom, dual-bath unit.
- (vii) D-202, being a second floor interior two-bedroom, dual-bath unit.
- (viii) D-203, being a second floor interior two-bedroom, dual-bath unit.
- (ix) D-204 through D-208, inclusive, being second floor interior one-bedroom, one-bath units.
- (x) D-209, being a second floor end one-bedroom, with den, dual-bath unit.

e. Building "E"

- (i) E-101 and E-106, being first floor end one-bedroom, one-bath units.
- (ii) E-102 through E-105, inclusive, being first floor interior, one-bedroom, one-bath units.
- (iii) E-201 and E-206, being second floor end one-bedroom, one-bath units.
- (iv) E-202 through E-205, inclusive, being second floor interior one-bedroom, one-bath units.

f. Building "F"

- (i) F-101 and F-104, being first floor end one-bedroom, one-bath units.
- (ii) F-102 and F-103, being first floor interior one-bedroom, one-bath units.
- (iii) F-201 and F-204, being second floor end one-bedroom, one-bath units.
- (iv) F-202 and F-203, being second floor interior one-bedroom, one-bath units.

g. Building "G"

- (i) G-101 and G-104, being first floor end one-bedroom, one-bath units.

- (ii) G-102 and G-103, being first floor interior one-bedroom, one-bath units.
 - (iii) G-201 and G-204, being second floor end one-bedroom, one-bath units.
 - (iv) G-202 and G-203, being second floor interior one-bedroom, one-bath units.
4. Description of Apartments. There will be fifty-one (51) one-bedroom units and thirty-nine (39) apartment two-bedroom units, described as follows:
- a. The Type I, interior two-bedroom, dual-bath units each contain an entry, hallway, living/dining area, kitchen, two (2) bedrooms, dual-bathrooms, laundry area, storage locker and lanai. The floor area is approximately 982.86 square feet, including 170.64 square feet of lanai. The Type I, end two-bedroom, dual-bath units (10) each contain an entry, hallway, living/dining area, kitchen, two (2) bedrooms, dual-bathrooms, laundry area, storage locker and lanai. The floor area is approximately 986.64 square feet, including 171.36 square feet of lanai.
 - b. The Type II, interior two-bedroom, dual-bath units each contain an entry, hallway, living/dining area, kitchen, two (2) bedrooms, dual-bathrooms, laundry area, storage locker and lanai. The floor area is approximately 1,033.52 square feet, including 170.64 square feet of lanai. The Type II, end two-bedrooms, dual-bath units (4) each contain an entry, hallway, living/dining area, kitchen, two (2) bedrooms, dual-bathrooms, laundry area, storage locker and lanai. The approximate floor area is 1,037.48 square feet, including 171.36 square feet of lanai space.
 - c. The Type III, one-bedroom with den, dual-bath units each contain an entry, hallway, living/dining area, kitchen, bedroom, den, dual-bathrooms, laundry area, storage locker and lanai. The floor area is approximately 1,065.18 square feet, including 209.36 square feet of lanai.
 - d. Type IV, interior one-bedroom, one-bath units each contain an entry, hallway, living/dining area, kitchen, bedroom, bathroom, laundry area, storage locker and lanai. The floor area is approximately 696.48 square feet, including 109.36 square feet of lanai. The Type IV, end one-bedroom, one-bath units each contain an entry, hallway, living/dining area, kitchen, bedroom, bathroom, laundry area, storage locker and lanai. The floor area is approximately 700.00 square feet, including 110.00 square feet of lanai.

COMMON ELEMENTS; The common elements include:

1. The land in fee simple;
2. The foundations, floor slabs, columns, girders, beams, supports, bearing walls, roofs, corridors, stairways, entrances and exits of the buildings and all structural and bearing surfaces;
3. The roof;
4. The manager's apartment (Apt. A-102);
5. The mailboxes, trash areas, office, cabana and storage room;
6. The swimming pool, jacuzzi, paddle tennis court, parking stalls and driveways;
7. The central and appurtenant installations for services such as power, light, hot and cold water and like utilities;
8. All of the parts of the project existing for the common use and are necessary to the existence, maintenance and safety of the project.

LIMITED COMMON ELEMENTS: The proposed Declaration provides that there will be no limited common elements.

INTEREST TO BE CONVEYED TO PURCHASERS: The undivided fractional interest ownership in the common elements ("common interest") appertaining to each apartment for all purposes including voting is as follows:

<u>Unit Type</u>	<u>%</u>	<u>Total Units</u>	<u>Total %</u>
I	1.3297	32	42.5504%
II	1.3983	6	8.3898
III	1.4411	2	2.8822
IV	.9424	<u>49</u>	<u>46.1776</u>
		89	100.0000%

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that all apartments shall be occupied and used as living accommodations for permanent or transitory use and may be leased or rented from time to time for transient occupancy by the respective owners thereof, their tenants, families, domestic servants and social guests subject to such limitation as may be contained in the Declaration or in the By-Laws and House Rules which may be adopted from time to time governing the use of the apartments.

The purchasers or prospective purchasers are advised to read with care the proposed House Rules which provides in part: (1) Occupancy limited to six persons for two-bedroom apartments and four persons for one-bedroom apartments; (2) No dogs, cats or other domestic pets are allowed on the common areas.

OWNERSHIP OF TITLE: The Preliminary Title Report by Title Guaranty of Hawaii, Inc., dated March 10, 1980, reflects that title is vested as follows:

- (1) For T.M.K. 3-9-09-21, Paul K. Kenolio and Mauto J. Kenolio, husband and wife, an undivided 5/8 interest and Jonah I. Kenolio, Gladys H. Muaina and James H. Kenolio, each an undivided 1/8 interest;
- (2) For T.M.K. 3-9-09-22, Tom T. Shibano and Shigenobu Shibano.

The Developer entered into a development agreement dated June 4, 1978 with United Realty, Inc. who has agreed to purchase the land committed to the project by way of Sub-Agreement of Sales with the fee owners.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report by Title Guaranty of Hawaii, Inc., also reflects the following encumbrances:

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 Division, County of Maui, Hawaii.
2. As to T.M.K. 3-9-09-21:
 - (a) Dower right of Janet K. Kenolio, wife of Isaac K. Kenolio.
 - (b) Agreement of Sale from Jonah I. Kenolio, husband of Dorothy Kenolio, Paul K. Kenolio and Mauto J. Kenolio, husband and wife, Gladys H. Muaina, also known as Gladys H. Kenolio and James H. Kenolio, husband of Tamiko Kenolio, to Harold L. Freitas, as Trustee with full power to grant, bargain and convey for the Waiohuli Associates, joint venture, dated April 27, 1978, and recorded in Liber 12879 at Page 737.
 - (c) Sub-Agreement of Sale from Harold L. Freitas, as Trustee with full power to grant, bargain and convey for the Waiohuli Associates, joint venture to United Realty, Inc., a Hawaii corporation, dated July 10, 1978, and recorded in Liber 13007 at Page 351. Said Sub-Agreement of Sale was re-recorded in Liber 13028 at Page 740.

3. As to T.M.K. 3-9-09-22:

- (a) Agreement of Sale from Tom T. Shibano, husband of Bernice S. Shibano, and Shigenobu Shibano, husband of Fusae Shibano to Harold L. Freitas, husband of Rowena S. Freitas, dated March 28, 1973, and recorded in Liber 9049 at Page 1.

Above Agreement of Sale by that mesne assignments was assigned by Harold L. Freitas, husband of Rowena S. Freitas, and Tom T. Shibano, husband of Bernice S. Shibano to The Puuhala Associates, a limited partnership organized under the laws of the State of Hawaii, dated February 1, 1974, and recorded in Liber 9729 at Page 414.

- (b) Sub-Agreement of Sale from The Puuhala Associates, a limited partnership organized under the laws of the State of Hawaii to United Realty, Inc., a Hawaii corporation, dated July 10, 1978, and recorded in Liber 13007 at Page 371.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated April 10, 1980 identifies American Abstract & Escrow, Inc., a Hawaii corporation, as Escrow. On examination, the specimen Deposit, Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A Hawaii Revised Statutes and particularly Sections 514A-37, 39, 40 and 63 through 66.

The Escrow Agreement provides, among others, that a purchaser shall be entitled to a return of his funds, and Escrow shall pay such funds to such purchaser, without interest, less cancellation fee of \$25.00, promptly after purchaser has requested such return if Escrow shall have received from Developer a written notice that any one of the following has occurred:

1. Developer shall have requested Escrow to return to purchaser the funds of purchaser then being held hereunder by Escrow; or
2. Developer shall have notified Escrow of Developer's exercise of the option to rescind the sales contract pursuant to any right of rescission stated therein or otherwise available to Developer; or
3. 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

4. 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

5. The Final Report shall not have been issued within one (1) year from the date of issuance of the Preliminary Report.

The specimen Sales Contract provides among other provisions:

1. Purchaser agrees that all rights of Purchaser are and shall be subject and subordinate to the lien of any mortgage, security agreement and financing statement securing the repayment of the interim loan made to finance the cost of construction and other costs during construction;

2. The Sales Contract shall be binding upon execution of contract between Seller and Purchaser and after Seller receives an executed receipt for the Final Public Report from Purchaser.

3. If Seller encounters unexpected delays in the development and construction of the project which requires an increase in apartment sales prices over and above 5% to maintain financial feasibility of the project, Seller may at its option terminate the Sales Contract and cause Escrow to refund to Purchaser all monies paid without interest and seller shall be released from all liability.

It is incumbent upon the purchaser and the prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds on the sale of the Apartments and all sums from any source are placed in Escrow, as well as the retention, disbursement, and refund of said escrow funds.

MANAGEMENT AND OPERATION: The proposed Declaration provides that the operation of the project shall be conducted for the Association by a responsible managing agent who shall be appointed by the Association in accordance with the By-Laws. By virtue of an agreement dated August 27, 1979, Oihana Property Management And Sales, Inc., has been designated the initial managing agent.

STATUS OF PROJECT: As of this date no construction contract has been entered into by the developer. It is estimated that the project will be completed twelve (12) months after the commencement of construction.

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 April 24, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES
(CONDOMINIUM) PUBLIC REPORT is made a part of the REGISTRATION
NO. 1300 filed with the Commission on April 24, 1980,

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making facsimiles must be yellow.



AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

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Registration No. 1300

Date: May 12, 1980