

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 KAHILI
5500 Honoapiilani Highway
Napili, Maui, Hawaii

Registration No. 1396

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: April 30, 1981
Expires: May 30, 1982

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 FEBRUARY 25, 1981. 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. "THE KAHILI" is a proposed fee simple condominium situate in Napili, Maui, Hawaii, which will consist of twenty-one (21) residential apartments in five (5) two-story buildings. There will also be a pool, twenty-seven (27) parking stalls and two (2) loading parking stalls.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of this proposed condominium project and the issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved floor plans) have not yet been recorded in the office of the recording officer.
4. Advertising or promotional materials have not been filed pursuant to the rules and regulations of the Commission.
5. Purchasers or prospective purchasers are advised to acquaint themselves with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration of THE KAHILI condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) and Disclosure Statement in the hands of all purchasers and prospective purchasers and securing a signed receipt therefor.
7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, April 30, 1981, unless a Final or Supplementary Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE KAHILI

LOCATION: The approximately 59,918 square feet of land to be submitted to the regime is situate at 5500 Honoapiilani Highway, Napili, Maui, Hawaii.

TAX MAP KEY: 4-3-2-40

ZONING: Napili Bay Improvement District.

DEVELOPER: MT. PLEASANT DEVELOPMENT CO., INC., a California corporation, duly qualified to do business in the State of Hawaii, whose principal place of business and post office address is 2510 Stevens Creek Blvd., San Jose, California 95128. Telephone number: (408) 275-6070. The Developer's principal place of business in the State of Hawaii is at 841 Bishop Street, Suite 400, Honolulu, Hawaii, and its post office address is P. O. Box 212, Honolulu, Hawaii 96810. Telephone number: (808) 521-6971.

The officers and their respective addresses are:

James Near, President and Director
2510 Stevens Creek Boulevard
San Jose, California 95128

Richard E. Clark, Vice-President and Director
2510 Stevens Creek Boulevard
San Jose, California 95128

James B. Little, Secretary and Director
1625 The Alameda, Suite 400
San Jose, California 95126

Alan I. Wandel, Assistant Treasurer
2510 Stevens Creek Boulevard
San Jose, California 95128

ATTORNEY REPRESENTING DEVELOPER: Ueoka & Luna (Attention: B. Martin Luna), 2103 Wells Street Wailuku, Maui, Hawaii 96793, and Bert M. Tomasu, 850 Richards Street, Suite 602, Honolulu, Hawaii 96813; telephone number 537-4026.

DESCRIPTION OF PROJECT AND APARTMENTS: The proposed project consists of five two-story buildings without basements containing a total of twenty-one apartment units, together with parking stalls, driveways, landscaping and a swimming pool. The buildings are to be constructed principally of wood and concrete with shake shingle roofs.

The apartment units are located in the buildings as specified below:

1. Building 1

1st Floor: Apartment Nos. 5501, 5502, 5504, 5505
2nd Floor: Apartment Nos. 5503, 5506

2. Building 2

1st Floor: Apartment Nos. 5507, 5508
2nd Floor: Apartment No. 5509

3. Building 3

1st Floor: Apartment Nos. 5510, 5511
2nd Floor: Apartment No. 5512

4. Building 4

1st Floor: Apartment Nos. 5513, 5514, 5516, 5517
2nd Floor: Apartment Nos. 5515, 5518

5. Building 5

1st Floor: Apartment Nos. 5519, 5520
2nd Floor: Apartment No. 5521

The apartments are built according to the following floor plans.

Two bedroom apartments: There are fourteen (14) two bedroom apartments in the project which consist of two bedrooms, two bathrooms, kitchen and a living/dining room with an approximate floor area of 981 square feet and two lanais totalling approximately 249 square feet for a total floor area of approximately 1,230 square feet. All two bedroom apartments are on the ground level and have immediate access to the grounds of the project.

Three bedroom apartments: There are seven (7) three bedroom apartments in the project which consist of three bedrooms, two and one-half bathrooms, kitchen, living room and a dining room with an approximate floor area of 1,454 square feet and a lanai of approximately 149 square feet for a total floor area of approximately 1,603 square feet. All three bedroom apartments are on the second floor and have access to a stairway which leads to the grounds of the project.

The square footage of the respective apartments are computed by measuring from the approximate center lines of interior partitions to the approximate center lines of interior partitions or to the exterior face of studs in outside walls. Exterior areas such as lanais are measured from the exterior face of studs in outside walls to the outer edge of lanai slabs or the exterior face of studs of lanai enclosures. All such measurements are subject to the common elements in the area measured. Actual physical measurements after construction vary from measurements on plans and drawings. Also, alignments after construction vary from alignments shown on plans and drawings. Therefore, all areas shown above are approximations.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load bearing walls, the unfinished floors and unfinished ceilings surrounding each apartment, and the unfinished floors and any unfinished ceilings of lanais, or any pipes, wires, conduits or other utility lines running through an apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include any adjacent lanais, all the walls and partitions which are not load bearing within its perimeter walls, all doors, windows and perimeter glass, the inner decorated or finished surfaces of all walls, floors and ceilings, and the built-in fixtures.

COMMON ELEMENTS: One freehold estate is designated in all the remaining portions and appurtenances of the project, which are called "common elements", including specifically but not limited to:

- (a) The land in fee simple;
- (b) All foundations, floor slabs, columns, girders, beams, supports, other structural members, unfinished perimeter, party and load bearing walls and roofs;
- (c) All yards, grounds, landscaping, planters, fences, mail boxes, trash enclosures, swimming pool, and pool equipment;
- (d) All ducts, sewer lines, sewerage treatment facilities and equipment, electrical equipment, wiring and other central and appurtenant installations for services including power, light, water, gas, refuse, telephone and radio and television signal distribution;
- (e) All roadways, sidewalks, and driveways, which are rationally of common use including six guest parking stalls designated as stalls 1 through 6 on the Condominium File Plan and two loading stalls as designated on the Condominium File Plan;
- (f) Any and all other apparatus and installations of common use and all other parts of the project necessary or convenient for its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called and designated "limited common elements" are set aside 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) Each apartment shall have appurtenant to it one parking stall as designated on Exhibit "A" attached hereto;
- (b) Exterior stairways, landings and entranceways shall be limited common elements for the exclusive use of the apartments they serve;
- (c) All other common elements of the project which are rationally related to less than all of said apartments or buildings shall be limited to the use of such apartments or buildings.

PERCENTAGE OF UNDIVIDED INTEREST: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting as shown on Exhibit "A" attached hereto.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that each apartment shall at all times be used as a permanent or temporary residence and for any other purpose permitted by all applicable laws and the Declaration and the By-Laws attached thereto, but specifically excluding timesharing plans, interval ownership plans or clubs.

The proposed House Rules provide that no livestock, poultry, rabbits or other animals whatsoever shall be allowed in any part of the project except that dogs of a size suited to apartment living, cats and other household pets in reasonable number may be kept by apartment owners.

OWNERSHIP OF TITLE: A Preliminary Report prepared by Title Guaranty of Hawaii, Inc., dated February 9, 1981, certifies that title to the land committed to this regime is vested in Mt. Pleasant Development Co., Inc., a California corporation, under a deed dated January 15, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15328, Page 399.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report prepared by Title Guaranty of Hawaii, Inc., states that as of the date of the report, title to the land is subject to:

1. Any taxes that may be due and owing, 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. That certain mortgage, financing statement and security agreement dated January 23, 1981, made by and between Mt. Pleasant Development Co., Inc., as Mortgagor, and Bancorp Finance of Hawaii, Inc., as Mortgagee, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15328, Page 405.
4. That certain second mortgage dated January 23, 1981, made by and between Mt. Pleasant Development Co., Inc., as Mortgagor, and David P. Ting and Sons, Inc., Duane Paul Ting, husband of Annette Ting, Dennis P. Ting, trustee for Investment and Mortgage Consultants, Inc., and B. Martin Luna, husband of Kay Y. Luna, as Mortgagee, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15328, Page 426.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated February 24, 1981, between Title Guaranty Escrow Services, Inc., as Escrow, and Developer has been filed with the Commission. Upon examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended, and particularly Section 514A-39, 514A-40 and Section 514A-63 through 514A-66.

Among other conditions, the Escrow Agreement provides for the payment of all funds under the specimen Sales Contract to the Escrow and that Escrow shall not disburse any funds to the Developer unless and until a Final Public Report has been issued to a purchaser and the purchaser shall have acknowledged receipt of same or have been deemed to have acknowledged receipt of same. The Escrow Agreement also provides that Escrow shall refund all funds of a purchaser under a Sales Contract, without interest, less an escrow cancellation fee of not less than \$25.00 or a cancellation fee commensurate with the work done by Escrow prior to cancellation of the Sales Contract, whichever is greater, if one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held 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, subsequent to the execution of purchaser's sales contract, requiring approval of a county officer having jurisdiction over the issuance of building permits, unless such change is specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or unless a purchaser's written approval of acceptance of the specific change is obtained or ninety days have elapsed since the purchaser has accepted in writing, the apartment or the purchaser has first occupied the apartment; 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 or has not been deemed to have waived his right to a refund.

The specimen Sales Contract states that certain of its terms are subject to the terms of the Escrow Agreement. The Sales Contract also provides, in part, that the Sales Contract shall only constitute a reservation agreement until such time as a purchaser is notified that Developer has determined that the project can go forward and purchaser has surrendered his right to cancel the Sales Contract as provided therein.

NOTE: PROSPECTIVE PURCHASERS SHOULD BE AWARE THAT THE SALES CONTRACT PROVIDES THAT THE DEVELOPER'S MORTGAGE LOANS (INTERIM, RENEWALS AND EXTENSIONS) USED FOR THE CONSTRUCTION OF THE PROJECT SHALL BE AND REMAIN AT ALL TIMES A LIEN ON THE PROJECT SUPERIOR TO ANY LIEN OR CHARGE ON THE PROJECT ARISING FROM PURCHASERS' SALES CONTRACTS, AND PURCHASERS INTENTIONALLY WAIVE, RELINQUISH AND SUBORDINATE THE PRIORITY OF LIEN UNDER THE SALES CONTRACT OR ANY OTHER PRIOR RESERVATION AGREEMENT IN FAVOR OF SUCH MORTGAGE LOAN. FURTHERMORE, THE SALES CONTRACT PROVIDES THAT THE PURCHASER ACKNOWLEDGES THAT DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT OR COMMON ELEMENTS OR ANYTHING INSTALLED THEREIN. DEVELOPER MERELY ASSIGNS ALL WARRANTIES CONNECTED WITH THE DEVELOPMENT OF THE PROJECT, INCLUDING MANUFACTURER'S OR DEALER'S WARRANTIES CONNECTED WITH FURNISHINGS AND APPLIANCES INSTALLED IN THE PROJECT.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement as well as the Sales Contract as the Escrow Agreement establishes the procedure for receiving and disbursing purchasers' funds, and the Sales Contract specifically incorporates the Escrow Agreement into the Sales Contract.

The Developer has informed the Commission that no binding sales contracts will be entered into until the Commission has issued a Final Public Report on the Project and that prior to issuance of the Final Public Report, the Sales Contract, pursuant to its terms, is deemed a reservation agreement which either party may cancel by written notice to the other, and upon cancellation by either party the Developer will cause the Escrow for the project to refund to purchaser the amounts deposited with Escrow, without interest, and less any cancellation fee imposed by Escrow, pursuant to the terms of the Escrow Agreement.

NOTE: THE MAUI PLANNING COMMISSION HAS REQUIRED THE DEVELOPER NOTIFY ALL FUTURE OCCUPANTS THAT THE PROJECT IS SUBJECT TO POSSIBLE FLOOD INUNDATION. THE DEVELOPER PLANS TO CONSTRUCT RETAINING WALLS IN THE AREA OF POTENTIAL INUNDATION AT AN ELEVATION HIGHER THAN HISTORIC INUNDATION LEVELS TO PROTECT THE PROPERTY.

MANAGEMENT OF THE PROJECT: The proposed Declaration states that the administration of the Horizontal Property Regime shall be vested in the "Association of Apartment Owners" of the Project, referred to as the "Association". Each fee owner of an apartment automatically, upon becoming an owner, becomes a member of said Association and remains a member until such time as his ownership ceases. Under the proposed By-Laws the Association will have the responsibility of the general administration of the project, establishing and collecting monthly assessments, and arranging for the management of the project by a managing agent. The Board of Directors are given the power and duty to manage, operate, care, and maintain the property of the regime, the common elements and the limited common elements, to approve the annual budget, and to employ and dismiss personnel necessary for the maintenance, operating, repair, and replacement of the common elements. The Developer has appointed Chaney, Brooks & Company, 666 Front Street, Suite 127, Lahaina, Maui 96761 as the initial managing agent.

STATUS OF PROJECT: The Developer advises that it estimates construction of the project will commence in April, 1981, and according to the Notice of Intention it should be completed by April, 1982.

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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 February 25, 1981.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1396 filed with the Commission February 25, 1981. This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be yellow.


G. A. "RED" MORRIS, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

DISTRIBUTION:

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

REGISTRATION NO. 1396

EXHIBIT "A"

<u>Apartment No.</u>	<u>Common Interest</u>	<u>Parking Stall</u>
5501	.0410%	7
5502	.0410%	8
5503	.0608%	9
5504	.0410%	10
5505	.0410%	11
5506	.0608%	12
5507	.0410%	13
5508	.0410%	14
5509	.0608%	15
5510	.0410%	16
5511	.0410%	17
5512	.0608%	18
5513	.0410%	19
5514	.0410%	20
5515	.0608	21
5516	.0410	22
5517	.0410	23
5518	.0610	24
5519	.0410	25
5520	.0410	26
5521	.0610	27

Percentage interests have been generally computed on the basis of approximate apartment floor areas. All two bedroom apartments have .0410% common interest. All three bedroom apartments except apartments 5518 and 5521 have .0608% common interest. Apartments 5518 and 5521 have been allocated .0610% common interest in order that the total common interest totals 100%.