

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
STATE OF HAWAII

1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

MALU MALU
Ali'i Drive
Kailua-Kona
County and State of Hawaii

Registration No. 1624

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: September 25, 1984
Expires: October 25, 1985

SPECIAL ATTENTION

A comprehensive reading of this report by the prospective purchaser 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 July 31, 1984, AND INFORMATION SUBSEQUENTLY FILED AS OF September 17, 1984. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME LAW, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. MALU MALU is a proposed leasehold condominium development comprised of eight (8) apartment units in a three level rectangular building, together with eight (8) covered assigned parking stalls (one compact) in a parking basement and two (2) unassigned parking stalls for guests, a swimming pool, and associated improvements.
2. The developer of the project have 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. However, the basic documents (Declaration, By Laws, and Condominium Map) have not yet been recorded.
4. No advertising or promotional matter has been submitted pursuant to 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, as amended, and the Condominium Rules and Regulations which relate to the Horizontal Property Regime.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, September 25, 1984, unless a Supplementary or Final Public Report is issued, 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 the registration of the MALU MALU condominium project. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) and attached Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed receipt therefor.

NAME OF PROJECT: MALU MALU.

LOCATION: The Project is located on approximately 15,372 square feet of land along Ali'i Drive (Makai), Holualoa-Kai, District of North Kona, County and State of Hawaii.

TAX MAP KEY: Third Division, 7-6-14-12 and 13.

ZONING: The property is presently zoned resort, V-1.25.

DEVELOPER: Kona Bay Development Co., Ltd., a Hawaii corporation, with its principal office located in Kailua-Kona, Hawaii, and its post office address as P. O. Box 5398, Kailua-Kona, Hawaii 96740. The president of the corporation is F. M. Scott and the vice president is Lucille E. Scott, both of the same address. The telephone number is (808)329-5481.

ATTORNEY REPRESENTING DEVELOPER: Roy L. Anderson, Suite 101 Kawaiahao Plaza, 567 South King Street, Honolulu, Hawaii 96813, Telephone: (808)528-1500.

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

A. Description of Project. The project will consist of one raised rectangular three-story apartment building containing eight (8) resort apartments plus a basement area on the ground level with parking facilities containing eight (8) covered parking stalls and two (2) uncovered parking stalls, a swimming pool, and various associated improvements, all situated upon the land.

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

- (a) The ground floor slab shall be of poured reinforced concrete.

(b) The floor slabs above the ground floor shall be of steel joists and poured concrete.

(c) Exterior and bearing walls shall be of painted or otherwise decoratively covered concrete block.

(d) The interior walls within each apartment shall be of wood or metal studs and gypsum board with textured paint or comparable decorative material except bathroom and kitchen walls which shall be covered with smooth paint; ceilings will consist of gypsum board with acoustical finish or comparable decorative material, except bathroom and kitchen ceilings which shall be covered with smooth finish.

(e) The stairways shall be of steel with concrete or otherwise covered with decorative tread material.

(f) The roof shall be of wood frame, with pitch and gravel waterproofing, and a portion thereof shall contain a redwood traffic deck which will be reserved for the exclusive use of two of the apartments as herein after provided.

(g) The concrete floor within each apartment shall be covered with carpet and/or ceramic tile.

The building, swimming pool, parking area, and all associated improvements, are to be constructed in accordance with Plans and Specifications by Robert Nespor & Associates, and certified by Michael J. Krochina, Registered Professional Engineer, as the same may be revised from time to time, as will be shown in the Condominium Map for the project to be recorded in the Bureau of Conveyances of the State of Hawaii.

B. Description of Building. The building shall consist of a total of four levels, including the basement level and covered parking area on the ground level, and the three stories of resort apartments above. The three stories contain a total of eight (8) separate apartments numbered 1 through 8 herein-after described. There is one (1) elevator on one side of the center of the building, connecting the basement and parking level with the hallways located on each of the three (3) stories. There are two (2) stairways, a main stairway adjacent to the elevator and an emergency stairway on the opposite side of the building. The main stairway connects the basement and parking level with the hallway on each of the three (3) stories and also provides access to the common area of the roof. The emergency stairway connects the apartments on the second and third stories with the grounds as shown on the proposed Condominium Map.

The basement level contains the parking area, an elevator equipment room, a pool equipment room, an electrical equipment room, and an entranceway to the elevator.

The first story of the building includes a hallway which leads from the elevator and main stairway to the entrance to four (4) apartments numbered 1, 2, 3, and 4. Apartments numbered 3 and 4 and the downstairs portions of apartments numbered 1 and 2 are located on this floor.

The second story of the building includes a hallway which leads from the elevator and main stairway to the entrance to two (2) apartments numbered 5 and 6. Apartments numbered 5 and 6 and the upstairs portion of apartments numbered 1 and 2 are located on this floor.

The third story of the building includes a hallway which leads from the elevator and main stairway to the entrance to two (2) apartments numbered 7 and 8 located on this floor, each with separate access to a roof lanai.

The roof of the building contains two private lanais and a common area for air-conditioning and solar heating equipment for the use of all apartments.

Each apartment has immediate access to the interior hallway of the floor on which it is located. The hallways are common areas in the middle of the building, which lead to the main stairway and to the elevator, which lead to the covered parking area, basement level, swimming pool area, the grounds around the building, and to the parking lot driveway which leads to Ali'i Drive.

C. Description of Apartments. The project is divided into eight (8) separate freehold estates. Each of the eight (8) separate apartments contains a living room, dining area, kitchen, two bedrooms, and two or more bathrooms, as shown on the proposed Condominium Map and as more specifically listed on Exhibit "A", attached. Each apartment contains an interior floor area (excluding lanai area) as designated on Exhibit "A", and, in addition to the designated interior square footage each apartment has one or more private lanais, containing a square footage also shown on Exhibit "A" attached hereto.

Each apartment shall consist of the space measured horizontally by the distances between the interior surfaces of the perimeter walls of each apartment, and the space measured by the area of lanai of each apartment, and measured vertically by the distances between the topside surface of the concrete floor and the underside surface of the ceiling.

The respective apartments are not to be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls. The unfinished surfaces of the floors and ceilings surrounding each of them or any pipes, wires, conduits, or other utility lines running through them which are utilized by or serve more than one apartment are deemed common elements, as hereinafter provided. Each apartment shall be deemed to include all of the walls and partitions which are not load-bearing within its perimeter walls, the unfinished surfaces of the floors and ceilings, including all paper, wall paper, or other like wall covering, carpeting, floor covering and built-in fixtures. The respective responsibilities of each individual apartment owner and the association of owners to maintain, repair, and replace all portions of the project shall be as hereinafter provided.

Each apartment has immediate access to the interior hallway of the floor on which it is located. The hallways are common areas in the middle of the building which lead to the main stairway and to the elevator which lead to the covered parking area, basement level, swimming pool area, the grounds around the building, and to the parking lot driveway which leads to Ali'i Drive.

COMMON ELEMENTS: The common elements in which each apartment shall have a percentage of undivided interest as hereinafter set forth include the following:

- (a) The land.
- (b) The foundation, floor slabs, columns, girders, beams supports, bearing walls, roofs, corridors, stairways, fire escapes, entrances and exits of the building.
- (c) The roof (subject, however, to the rooftop lanais described under Limited Common Elements), the basement area, including, without limitation, the electrical equipment room, and the pump room.
- (d) The trash receptacle area, swimming pool, swimming pool deck, and associated equipment.
- (e) The driveways, sidewalks, loading areas, ramps, and the two (2) uncovered parking stalls for guests designated I and J on the proposed Condominium Map.
- (f) All central and appurtenant installations for all services such as power, light, gas, hot and cold water, and all like utilities.

(g) The elevator, its elevator shaft and pit, elevator machine room, and appurtenant installations and apparatus.

(h) All of the parts of the project existing for the common area use and which are necessary to the existence, maintenance, and safety of the project.

LIMITED COMMON ELEMENTS: Eight (8) covered parking stalls designated by letters A through H as shown on the proposed Condominium Map, are reserved for the exclusive use of the apartment listed opposite the parking stall letter, as shown on Exhibit "A".

Each apartment shall have reserved for its exclusive use an individual air conditioning system, a portion of which shall be located on the common area of the roof of the building.

Apartments numbered 7 and 8 shall each have reserved for its exclusive use, a rooftop lanai (on the roof of the building) which is accessible by way of a stairway from within the respective apartment.

Each apartment shall have reserved for its exclusive use, one (1) mailbox located in the elevator entranceway on the basement level.

INTEREST TO BE CONVEYED TO PURCHASER: The Developer shall, by means of a condominium conveyance document and assignment of lease, convey the apartment and the undivided percentage interest in the common elements appurtenant thereto, subject to all terms, covenants, and provisions, including the payment of lease-rental, to the Lessor as contained or referred to in the individual apartment leases. The percentage interest appurtenant to each apartment is set forth in Exhibit "A" attached hereto and shall be the same proportionate share in all common profits and expenses of the project and for all other purposes including voting. The schedule of lease-rental, exclusive of gross excise tax, property tax, insurance, and all other payments required by each lessee, is based on the percentage of common interests and is as set forth in Exhibit "A" attached hereto.

PURPOSES OF AND RESTRICTIONS ON THE USE OF BUILDING AND INDIVIDUAL APARTMENTS: The proposed Declaration of Horizontal Property Regime provides, among other things, as follows:

The use of each apartment in the project is subject to such limitation as may be contained in the individual apartment lease, or in the Bylaws and House Rules which may be adopted from time to time governing the use of the apartment.

All apartments shall be subject to and used only in accordance with the allowable uses according to the zoning ordinances of the County of Hawaii.

Each apartment is designated a resort apartment and shall be occupied and used only 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, servants, and guests, provided, however, that before the apartments can be used for time-sharing purposes as defined under Hawaii Law, the project must first be registered as a time share project under HRS 514E.

The House Rules prohibit household pets of any kind.

NOTE: Purchasers and prospective purchasers of apartments are hereby specifically informed that all apartment owners, their tenants, families, servants, and guests, and any other persons who may in any manner use the Project, shall be bound by and strictly comply with the provisions of the Declaration of Horizontal Property Regime, the Bylaws of the Association, and all agreements, decisions and determinations of the Association (including the House Rules for the Project). Purchasers and prospective purchasers are therefore advised to read and fully understand the proposed Declaration of Horizontal Property

Regime, Bylaws of the Association of Apartment Owners, and House Rules prior to executing any Sales Contract for the Project.

OWNERSHIP OF TITLE: A preliminary title report dated July 17, 1984, and issued by Hawaii Escrow & Title, Inc., reports that title to the property is vested in Herbert Mut Yau Chun and Bertha Kam Chin Chun, husband and wife. Be mesne assignment, title to the leasehold estate is held by Kona Bay Development Co., Ltd., a Hawaii corporation, the Developer.

ENCUMBRANCES AGAINST TITLE: The preliminary title report reflects that the leasehold title held by Kona Bay Development Co., Ltd. is subject to the following:

- (a) Real Property Taxes as may be due and owing. For further information, on taxes and assessments, reference is made to the County Tax Office in Hawaii.
- (b) Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in R.P. 4475.
- (c) The provisions of the Hawaii Coastal Zone Management Act pertaining to shoreline setbacks and prohibitions on use.
- (d) The interests of the heirs or devisees of the Estate of Kamaua.
- (e) An unrecorded deed from W.A. Wall, Commissioner in the matter of the partition of the Hui lands of Holualoa 1 and 2 in Equity No. 932, First Circuit Court, to Julia Keawehawaii.
- (f) All terms, covenants, and conditions of that certain Master Lease by and between Herbert M. Y. Chun and Bertha K. C. Chun, as Lessors, to Lui Enterprise, a Hawaii general partnership, dated June 18, 1982 (effective as of June 1, 1982), recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16453 at Page 316 ("Master Lease").

NOTE: The Developer has also disclosed that the property is subject to rights of Native Tenants as reserved in R.P. 4475.

PURCHASE MONEY HANDLING: The Developer has entered into an Escrow Agreement dated July 23, 1984 with Hawaii Escrow and Title Company, Inc., 850 Richards Street, Honolulu, Hawaii 96813, as Escrow Agent, which has been submitted to the Real Estate Commission as a part of this registration. It provides, among other provisions, that the purchaser shall be entitled to a refund of deposits and payments made only if (a) the Developer asks Escrow to refund the purchaser's funds, or (b) the Developer notifies Escrow of Developer's exercise of option to rescind the condominium deposit receipt and sales agreement, or (c) the conditions provided in Sections 514A-62 and 514A-63, of the Horizontal Property Act have been met and written notice thereof has been provided to the Developer.

The Condominium Deposit, Receipt, Reservation and Sales Agreement provides that the Buyer, by inspection and acceptance of the apartment, accepts any and all changes and modifications made by the Seller to the unit and to the Project including, but not limited to, the general and limited common elements.

A purchaser may elect to cancel his agreement to purchase a unit by giving written notice of such election to Developer at any time prior to the earlier of (1) the conveyance of the apartment to the Purchaser; or (2) midnight of the thirtieth (30th) day following the date of delivery of the final public report to the Purchaser. Upon such cancellation, purchaser shall be entitled to a prompt and full refund of all monies paid, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

The agreement also provides that until such time as the condominium conveyance document conveying title of an apartment unit is delivered to the

Buyer, and until the election of the Board of Directors and Officers of the Association of Owners, the Seller reserves the right to exercise all of the powers of the said Association and of the Buyer as a member thereof, including voting, and to exercise all of the powers of the Board and Officers of the Association. When there are units which are not completed or unsold, and the Horizontal Property Regime has been filed, the Seller has the right to exercise all of the powers of the units not completed or unsold.

The sales agreement also provides that the Seller reserves the right to modify the Declaration, Bylaws, and Condominium Conveyance Document as may be required by law, any title insurance company, or any institutional mortgagee. The Seller reserves the right to make changes that may, in the opinion of the Seller, improve the unit, the other units and common elements, but no changes shall be made which affect the physical location or design of the unit covered by the sales contract without the Buyer's consent.

The Developer contemplates entering into a construction loan upon such terms as the Developer deems appropriate. As security for the repayment of the construction loan, the Developer contemplates a mortgage being placed upon the Developer's interest in the property and the Project. This first mortgage will have priority over any interest of any purchaser of any apartment in the project.

Neither the Developer nor its agents has any program nor is any program planned or contemplated to offer a rental service of any kind to any Owner of an apartment in the Project, either individually or in any form of pooling arrangement or by any third party arranged for by the Seller or its agents.

It is incumbent upon the prospective purchasers that they read with care the specimen Condominium Deposit, Receipt and Sales Contract and the executed Escrow Agreement, since the Escrow Agreement establishes the procedures for receiving and disbursing of the purchaser's funds. The Condominium Deposit, Receipt and Sales Contract specifically provides that the purchaser approves of the Escrow Agreement and assumes the benefits and obligations therein provided.

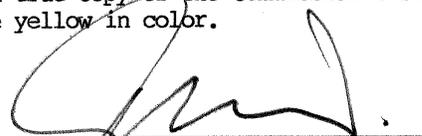
MANAGEMENT AND OPERATION: The Bylaws provide that the operation of the Project shall be under the charge of the Association of Apartment Owners, through a Board of Directors. The Board of Directors may, but need not, appoint a manager or managing agent to handle the affairs of the Project's management, operation, and maintenance, the entire cost of which shall be allocated among the apartments as a common expense.

STATUS OF THE PROJECT: The Developer reports that construction of the Project is estimated to commence approximately September 1984 and is estimated to be completed on or about March 1985.

The purchaser or prospective purchaser should be cognizant of the fact that this published Preliminary Public Report represents information disclosed by the Developer in the Notice of Intention submitted on July 31, 1984, and information subsequently filed as of September 17, 1984.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 1624 filed with the Real Estate Commission of Hawaii on July 31, 1984.

This Report, when reproduced, shall be a true copy of the Commission's Preliminary Public Report. Paper stock must be yellow in color.



G. A. "Red" Morris, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

DISTRIBUTION:

Bureau of Conveyances
Planning Department, County of Hawaii
Escrow Agent
Department of Finance
Federal Housing Administration

Registration No. 1624

September 25, 1984

<u>APT. NO.</u>	<u>DESCRIPTION OF EACH APARTMENT (WITH LIVING ROOM, KITCHEN, DINING ROOM)</u>	<u>FLOOR</u>	<u>APPROXIMATE INTERIOR SQUARE FOOTAGE (NET LIVING AREA)</u>	<u>APPROXIMATE LANAI SQUARE FOOTAGE</u>	<u>APPROXIMATE TOTAL SQUARE FOOTAGE</u>	<u>PERCENTAGE UNDIVIDED INTEREST IN COMMON ELEMENTS FOR ALL PURPOSES</u>	<u>PARKING STALL ASSIGNMENT</u>	<u>DESCRIPTION OF COVERED PARKING STALL</u>
1	2 bedrooms/2.5 bath-rooms/two-story (townhome)	1st & 2nd	1,958	726	2,684	14.34	F	Standard
2	2 bedrooms/2.5 bath-rooms/two-story (townhome)	1st & 2nd	2,151	870	3,021	14.34	G	Standard
3	2 bedrooms/2 bath-rooms	1st	1,100	272	1,372	10.66	H	Compact
4	2 bedrooms/2 bath-rooms	1st	1,100	272	1,372	10.66	A	Standard
5	2 bedrooms/2 bath-rooms	2nd	1,296	272	1,568	10.66	B	Standard
6	2 bedrooms/2 bath-rooms	2nd	1,100	272	1,372	10.66	C	Standard
7	2 bedrooms/2.5 bath-rooms/1 den/roof-top lanai	3rd	2,017	640 (1,400 roof)	4,057	14.34	E	Standard
8	2 bedrooms/2.5 bath-rooms/1 den/roof-top lanai	3rd	2,447	870 (1,150 roof)	4,467	14.34	D	Standard
			<u>13,169</u>			<u>100.00</u>		

EXHIBIT A