

**REAL ESTATE COMMISSION**

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

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

**FINAL  
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)  
PUBLIC REPORT**

on  
THE BANYAN TREE PLAZA  
1212 Punahou Street  
Honolulu, Hawaii

REGISTRATION NO. 393

**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 until

- (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: June 23, 1972  
Expires: July 23, 1973

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 JUNE 28, 1971 AND ADDITIONAL INFORMATION, RECITING MATERIAL CHANGES, SUBSEQUENTLY FILED WITH THE COMMISSION AS OF JUNE 22, 1972. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report of September 13, 1971 on THE BANYAN TREE PLAZA, Registration No. 393, the Developer reports that changes have been made in the plan or setup as represented in the June 28, 1971 notice of intention to sell.

The changes subsequently made are determined to be a material revision to the information earlier disclosed.

This Final Public Report is made a part of the registration on THE BANYAN TREE PLAZA condominium project. The Developer is held responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers receiving the Preliminary Public Report (yellow paper stock). Securing a signed copy of the Receipt for Horizontal Property Regimes Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.

2. THE BANYAN TREE PLAZA is a proposed leasehold condominium project consisting of two hundred forty (240) dwelling units arranged throughout a single 35 story building, with a lower level parking floor, four levels of parking above ground, a fifth floor recreational and parking area. There shall be a total of six hundred forty-nine (649) parking stalls on the project, of which three hundred fourteen (314) parking stalls shall be appurtenant to and for the use of the dwelling units. (NOTE: The additional three hundred thirty-five (335) parking stalls called the "church parking unit" are reserved for the fee simple owner of the property. There shall also be a commercial apartment called the "health club unit.")

Buyer will receive through an Apartment Lease, a subleasehold interest from the lessees of the fee simple owner. Said sublease will expire October 31, 2045.

3. The Developer has complied with Sec. 514-15, Hawaii Revised Statutes, and has fulfilled the requirements for the issuance of this Final Public Report prior to completion of construction.
4. 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 Final Public Report.
5. 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 been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime dated May 19, 1972, with By-Laws of Association of Apartment Owners attached, dated May 19, 1972, were filed with the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 584774.

The Registrar of the Bureau of Conveyances has designated Land Court Condominium Map No. 133 to the project.

6. Advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
7. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
8. This Final Public Report automatically expires thirteen (13) months after date of issuance, June 23, 1972, unless a

Supplementary Public Report issues or the Commission, upon review of the registration issues an order extending the effective period of this report.

9. The owner and lessor of the land upon which the condominium project is located is Corporation of the President of the Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole. Said Corporation, in connection with the filing of the Declaration, has consented to and joined in the submission of its fee simple interest to a Horizontal Property Regime.

The information in the topical headings of the Preliminary Public Report of September 13, 1971, with the exception of DEVELOPER, DESCRIPTION, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, INTEREST TO BE CONVEYED TO PURCHASER, PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE, OWNERSHIP TO TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, MANAGEMENT AND OPERATION and STATUS OF PROJECT, has not been disturbed.

DEVELOPER: Business Investment, Ltd., a Hawaii corporation. The names and residence of the principal officers of the corporation are as follows:

Colin de Silva	President	Financial Plaza of the Pacific Suite 1510 Honolulu, Hawaii 96813
Joan Clairede Silva	Secretary- Treasurer	Financial Plaza of the Pacific Suite 1510 Honolulu, Hawaii 96813

The Developer has submitted a Limited Partnership Agreement dated May 10, 1971, by and between Business Investment, Ltd., as "General Partner" and John E. Runyan, Richard E. Harris, Robert L. Rice and Kenneth O. Melby, as "Limited Partners".

A Certificate of Limited Partnership showing the same parties as "General Partner" and as "Limited Partners" was filed at the Department of Regulatory Agencies of the State of Hawaii on March 14, 1972.

DESCRIPTION: The Developer and Lessees have submitted a new executed Declaration dated May 19, 1972, to the Commission containing the following new description:

The proposed development shall consist of a 35-story building consisting of a parking structure and an apartment tower. The first four floors will be the parking structure, the fifth floor will be a recreation deck and the remaining 30 floors will contain dwelling units. There will be a total of 242 apartments, made up as follows: 240 dwelling units, hereinafter referred to as the "apartment units"; 1 commercial apartment, consisting of 10,000 square feet, more or less, hereinafter called the "Health Club Unit"; 1 parking apartment consisting of 335 parking stalls, hereinafter called the "Church Parking Unit". The parking structure is rectangular in shape and the apartment tower is an "L" form structure, the long leg (11 bays) fronting Punahou Street and the short leg (5 bays) fronting Beretania Street. The entire building shall be constructed of reinforced concrete, steel, aluminum and allied building materials.

The parking structure shall provide parking facilities for a total of 649 cars, and shall be divided into two separate parts, of which 314 parking stalls are limited

common elements for the apartment units and 335 parking stalls are the Church Parking Unit, which Church Parking Unit is to be conveyed to Lessor. Each of the respective parking areas has separate ingress and egress ramps and stair exits providing total separation of the parking users.

The short leg of the apartment tower will contain fifteen (15) four bedroom type "A" apartment units, thirty (30) three bedroom apartment units, of which fifteen (15) are type "B" apartment units and fifteen (15) are type "B-1" apartment units, and fifteen (15) one bedroom efficiency "C" type apartment units. The description and location of each apartment in the short leg of the building fronting Beretania Street are as follows:

a. The four bedroom type "A" apartment units occupy three and one-third of the five bays on the ewa end of the building portion facing Beretania Street and extend vertically on alternate floors from the sixth floor through the thirty-fourth floor. Each type "A" apartment unit contains a combination living-dining room, kitchen, foyer, four bedrooms, two and one-half bathrooms and two lanais, a total of 1920 square feet including 158 square feet of lanai area. Access to the apartment units is from the common element open corridor.

b. The three bedroom type "B" apartment units occupy three bays on the ewa end of the portion of the building fronting Beretania Street, and extend vertically on alternate floors from the seventh floor through the thirty-fifth floor. Each type "B" apartment unit contains a combination living-dining room, kitchen, foyer, three bedrooms, two bathrooms and two lanais, a total of 1514 square feet, including 158 square feet of lanai area. Access to the apartment units is from the common element open corridor.

c. The three bedroom type "B-1" apartment units occupy one and 2/3 bays on the lower floor and one bay on the floor above at the Diamond Head end of the portion of the building fronting Beretania Street. The type "B-1" apartment units extend vertically from the sixth floor through the thirty-fifth floor. Each type "B-1" unit contains a combination living-dining room, kitchen, foyer, three bedrooms, two and one half bathrooms and a lanai, a total of 1498 square feet, including 78 square feet of lanai. The type "B-1" apartment unit has its living-dining room, kitchen, foyer, 1-1/2 bathrooms, lanai and one bedroom on one level within one and 2/3 bays and two bedrooms and 1 bathroom on the floor above occupying one bay. Entrance to the apartment units is on the living room level with immediate access to a common element open corridor.

d. The one bedroom efficiency type "C" apartment unit is located in one bay on one level between the type "B" apartment units and the upper floor of the type "B-1" apartment units and occurs on alternate floors from the seventh floor through the thirty-fifth floor. The type "C" apartment units consist of a combination living-dining room, efficiency kitchen, bathroom, one alcove bedroom and lanai, a total of 546 square feet, including 32 square feet of lanai area. Access to the apartment units is from the common element open corridor.

The long leg of the apartment tower fronting Punahou Street will contain sixty (60) one bedroom apartment units

of which thirty (30) are type "D" apartment units and thirty (30) are type "D-1" apartment units; one hundred twenty (120) two bedroom apartment units of which sixty (60) are type "E" apartment units, thirty (30) type "E-1" apartment units, and thirty (30) type "F" apartment units. The description and location of each apartment unit in the long leg of the building fronting Punahou Street are as follows:

a. The one bedroom type "D" apartment units occupy 1-1/2 bays, facing Diamond Head at the makai end of the building. The type "D" apartment units extend from the sixth floor through the thirty-fifth floor. Each type "D" apartment unit contains a combination living-dining room, kitchen, foyer, one bedroom, one bathroom and lanai, a total of 793 square feet, including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.

b. The one bedroom type "D-1" apartment units occupy 1-1/2 bays facing Diamond Head from the sixth floor through the thirty-fifth floor. Each type "D-1" apartment unit contains a combination living-dining room, kitchen, foyer, one bedroom, one bathroom and one lanai, for a total of 793 square feet, including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.

c. The two bedroom type "E" apartment units occupy two bays between the type "D-1" and "E-1" apartment units, and between the type "E-1" and "F" apartment units. The type "E" apartment units extend from the sixth floor through the thirty-fifth floor. Each type "E" apartment unit contains a combination living-dining room, kitchen, foyer, two bedrooms, two bathrooms and a lanai, a total of 1059 square feet, including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.

d. The two bedroom type "E-1" apartment units occupy two bays between the two type "E" apartment units. The number, type and location of rooms are identical to the type "E" apartment units as well as the access to the unit and the total square footage. The type "E-1" apartment unit is the reversed layout of the type "E" apartment unit. Access to the apartment units is from the common element open corridor.

e. The two bedroom type "F" apartment units occupy 2-1/2 bays on the mauka end of the building portion fronting Punahou Street and extend vertically from the sixth floor through the thirty-fifth floor. Each type "F" apartment unit contains a living-dining room, kitchen, foyer, two bedrooms, two bathrooms and two lanais, a total of 1556 square feet, including 158 square feet of lanai area. Access to the apartment units is from the common element open corridor.

Included in the project are two areas which are not residential apartments. These areas are described as follows:

a. The Church Parking Unit for 335 cars is located on five levels of parking at the ewa end of the parking structure. The area of the first level of parking is bound by column lines A ewa, S diamond head, 31 mauka and

6 makai; the areas of the next three upper levels are bound by column lines A ewa, P diamond head, 31 mauka and 7 makai; the area of the top level is bound by column lines A ewa, G diamond head, 31 mauka and 7 makai; all as shown on the Condominium Map referred to in Paragraph 8 hereinafter. The Church Parking Unit is separated from the apartment parking by a metal screen fence. Ingress to and egress from the Church Parking Unit is along the ewa property line to Beretania Street. Such access is separated from the access to the apartment parking area.

b. An area of 10,000 square feet, more or less, the Health Club Unit, reserved for Lessees for a private health club (or such other commercial enterprise permissible under the Honolulu Comprehensive Zoning Code, as may be amended from time to time) located on the ground floor in the Diamond Head makai corner of the parking structure. The area measures 110 feet in a mauka-makai direction and 97 feet in a Diamond Head-ewa direction, starting at the Punahou Street property setback line. Ingress to and egress from the area will be directly from Punahou Street.

The entire building is served by a common utility core containing three high speed elevators, tenant storage, trash chute and mechanical and electrical equipment.

The layout and location of each apartment within the building are shown on Condominium Map 133 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

Parking stalls for apartment units will be allocated and assigned on the basis of one stall for each of the apartment units. After the initial allocation of 240 stalls, there will remain 74 stalls which shall be assigned by the Developer as follows:

a. 20 stalls will be limited common elements appurtenant to the apartment units and shall be used as guest parking for said units;

b. 54 stalls will be sold at the discretion of the Developer to purchasers of apartment units desiring additional stalls;

c. Upon completion of construction, if there remain unsold parking stalls up to a maximum of 10 stalls, such stalls will become limited common elements appurtenant to the apartment units as additional guest parking and each apartment unit will be assessed \$15.00 per stall up to the maximum of \$150.00 per unit for all 10 stalls.

Each of the apartment units in the project will be identified by a three or four digit number with the first one or two digits indicating the floor number, and the remaining two digits indicating the number of the apartment unit. The number 13 is omitted for floor and apartment unit numbering.

Apartment units first occur on the sixth floor with type "D", "D-1", "E", "E-1" and "F" apartment units occurring on every floor from the sixth floor through the thirty-fifth floor. Type "A", "B", "B-1" and "C" apartment units occur on alternate floors with type "A" and "B-1" apartment units starting on the sixth floor, namely, floors

6, 8, 10, 12, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35; and type "B" and "C" apartment units starting on the seventh floor; namely, floors 7, 9, 11, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34 and 36.

Numbering of the apartment units starts with 01 for the type "D" apartment unit mauka of the elevator lobby in the portion of the building fronting Punahou Street and extends to 06 for the type "F" apartment unit at the mauka end of the building. Numbering of the apartment units in the portion of building fronting Beretania Street starts with 07 for the apartment unit nearest the elevator lobby and extends to 08 for the apartment unit at the ewa end of the building.

COMMON ELEMENTS: The common elements shall include: (a) The land above described, undivided interests in which shall be leased to all apartment purchasers; (b) All foundations, columns, girders, beams, supports, bearing walls, roofs, chases, entrances and exits of said building; (c) All yards and refuse areas; (d) All parking areas, other than the Church Parking Unit; (e) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, water, refuse and telephone; (f) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

The boundary lines of each apartment within the condominium project are the interior unfinished surfaces (exclusive of paint, paper, wax, tile, enamel or other finishings) of its perimeter walls, bearing walls, floors and ceilings, exclusive of any common elements as provided in Paragraph 11 above. All doors and door frames and windows and window frames (excepting external finished surfaces facing a common element) and non-loadbearing walls within an apartment, however, are a part of the apartment.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called and designated as "limited common elements" will be set aside and reserved as follows for the exclusive use of the apartment units, the Church Parking Unit and the Health Club Unit and such apartments shall have appurtenant thereto an exclusive easement for the use of and shall bear the expenses of such limited common elements:

(1) For the apartment units:

- (a) Automatic electric passenger elevators with elevator housing and appurtenant equipment;
- (b) Swimming pool and pool recreation area, including toilet rooms, recreation deck and recreation rooms on the fifth floor;
- (c) The area on the ground floor and other floors of the building which are designated as lobbies;
- (d) All entrances serving the building other than those reserved for the exclusive use of the Church Parking Unit and the Health Club Unit;
- (e) All chutes, corridors, stairs, and walkways, excluding those within the Church Parking Unit and the Health Club Unit;
- (f) A minimum of 20 and a maximum of 30 parking stalls for use as guest parking, as set forth in Paragraph 9 hereinabove.

(g) Storage areas occurring on the second, third and fourth floors of the portion of the building fronting Beretania Street, on the fifth floor at the mauka end of the portion of the building fronting Punahou Street and storage areas off the elevator lobby on the sixth, ninth, twelfth, fifteenth, eighteenth, twenty-first, twenty-fourth, twenty-seventh, thirtieth, and thirty-third floors.

(h) The general office and manager's office on the ground floor.

(2) For the Church Parking Unit:

(a) Those entrances adjacent to the ewa property line serving the Church Parking Unit;

(b) A separate shaft for a hydraulic elevator;

(c) All stairways serving the Church Parking Unit;

(3) For the Health Club Unit:

(a) The entrance serving the Health Club Unit;

(b) All stairways serving the Health Club Unit.

One parking space designated on said Condominium Map by the number corresponding to the number of each apartment unit shall also be a limited common element and shall be appurtenant to and for the exclusive use of such apartment unit. If any additional parking spaces are assigned to an apartment unit, such spaces shall also bear the number of such unit and shall be limited common elements and shall be appurtenant to and for the exclusive use of such apartment unit.

INTEREST TO BE CONVEYED TO PURCHASER: The undivided interest in the common elements appertaining to each apartment and its owner for all purposes except as hereinabove set forth, including voting, expressed in terms of a percentage, hereinafter called a "common interest", is:

<u>Type of Apartment Unit</u>	<u>Percentage</u>
4 Bedroom "A"	.702319
3 Bedroom "B"	.553807
3 Bedroom "B-1"	.547955
1 Bedroom Efficiency "C"	.199722
*1 Bedroom "D"	.290071
1 Bedroom "D-1"	.290071
2 Bedroom "E" and "E-1"	.387373
2 Bedroom "F"	.569171
Health Club Unit	.300000
Church Parking Unit	.300000

\*Except one (1) "D" type apartment unit, that is, Apt. No. 601, has the following percentage interest: .290066.

The aggregate of which percentages multiplied by the number of apartments of each type shall at all times equal one hundred per cent (100%).

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The building described shall at all times be used as a residential apartment building except for the Church Parking Unit and the Health Club Unit described in the Declaration.

OWNERSHIP TO TITLE: The Notice of Intention submitted to the Commission on June 28, 1971 reflects that fee title to the parcel of 92,479 square feet is vested in Corporation of the President of the Church of Jesus Christ of Latter-Day Saints, a Utah corporation. The May 25, 1972 preliminary report of the Abstractor, Security Title Corporation, a Hawaii corporation, verifies that the title to the parcel committed to the Horizontal Property Regime is vested in that fee simple owner.

As of November 1, 1970, the property in question was leased by said fee simple owner to HEALTH INDUSTRIES, INC., a Utah corporation, and ROBERT L. RICE, KENNETH O. MELBY, RICHARD E. HARRIS, and JOHN E. RUNYAN.

A master lease made as of November 1, 1970 was filed at the Office of the Assistant Registrar of the Land Court as Document No. 584773.

ENCUMBRANCES AGAINST TITLE: Said Report of Security Title Corporation lists no encumbrances against title. Said lease, recorded subsequent to said Report, is an encumbrance against title.

PURCHASE MONEY HANDLING: A copy of the revised executed escrow agreement dated May 17, 1972, identifies Security Title Corporation, 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 514, Hawaii Revised Statutes.

The Developer has advised the Commission that the specimen Deposit Receipt and Sales Contract shows that if less than 100 apartments have been sold after six months of signing the Sales Contract, Seller may at its option cancel this agreement, refund to Buyer all monies paid with 6% interest per annum, and be relieved and released of all further liability hereunder.

It is incumbent upon the purchaser and prospective purchaser that he reads with care the Deposit Receipt and Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of dwelling units and all sums from any source are placed in trust as well as the retention and disbursement of said trust funds.

In connection with the financing of the project all purchasers of apartments who had executed purchase agreements prior to April 17, 1972 were sent a letter of the same date by the Developer requesting them to sign a document which reads as follows, and which is to become part of their purchase agreement:

"Buyer agrees that all of the rights of Buyer pursuant to the terms and conditions of the sales contract are and shall be subject and subordinate to the lien of any mortgage heretofore or hereafter made to finance the cost of construction and other costs during construction and to any and all advances made thereon, and to any and all sums which may become a lien pursuant to the terms of such mortgage or any other agreement relating to such mortgage. The subordination of Buyer's rights as herein provided shall be self-operating and no further instrument of subordination shall be required."

All persons purchasing apartment units subsequent to April 17, 1972 are required to sign the same document when executing their purchase agreements.

The above subordination agreement was requested by the construction lender as a condition precedent to its making the construction loan.

MANAGEMENT AND OPERATION: The By-Laws of the Association of Apartment Owners, executed May 19, 1972, place the authority in the Board of Directors to secure the services of Manager to manage the building. Suitable management arrangements will be made by the Developer prior to completion of construction.

Purchasers are requested to note that the Developer will pay real property taxes on unsold units, but is exempt from the advance payment of three months' estimated expenses and is also exempt for a period of 90 days after completion from payment of common expenses on unsold units, unless said units are rented.

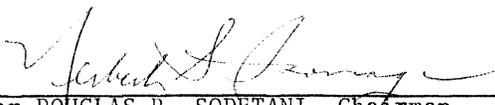
STATUS OF PROJECT: The Developer has entered into an Agreement with Hawaiian Dredging and Construction Company on May 30, 1972 to construct the building.

Groundbreaking ceremonies are scheduled for June, 1972. The Developer estimates that the building will be completed for occupancy at the end of March, 1974.

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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 June 28, 1971 and additional information filed as of June 22, 1972.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 393 filed with the Commission on June 28, 1971.

The report, when reproduced, shall be a true copy of the Commission's public report. In making facsimiles the paper stock must be white in color.

  
for DOUGLAS R. SODEVANI, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

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

REGISTRATION NO. 393  
June 23, 1972