

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

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

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

ON

THE BOUGAINVILLE
(Formerly known as THE SUNDOWNER)
Pearlridge, Kalauao, Ewa,
Honolulu, Hawaii

REGISTRATION NO. 600

This Report Is Not an Approval or Disapproval of This Condominium Project

It was prepared as a supplement to an earlier Report dated March 6, 1974 issued by the Real Estate Commission on the above 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: October 17, 1975
Expires: April 6, 1976

SPECIAL ATTENTION

A comprehensive reading 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, 1973, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 6, 1974 AND OCTOBER 16, 1975. THE SELLER IN NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL AND SUBMITTING ADDITIONAL INFORMATION, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Final Public Report on Registration No. 600, dated March 6, 1974, the Seller (previously referred to as "Developer", q.v.) has

forwarded additional information reflecting material changes which have been made in the documents for the project.

2. This Supplementary Public Report is made a part of the registration of THE BOUGAINVILLE condominium project (previously known as THE SUNDOWNER condominium project). The Seller is responsible for placing this Supplementary Public Report (pink paper stock) in the hands of all purchasers and prospective purchasers receiving the Final Public Report (white paper stock) for THE SUNDOWNER. Securing a signed copy of the Receipt for Horizontal Property Regime Public Report from each purchaser and prospective purchaser is also the responsibility of the Seller.

3. The Seller of the project has filed all documents and materials deemed necessary by the Commission for the registration of this condominium project and the issuance of this Supplementary Public Report.

4. 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 recorded in the Bureau of Conveyances of the State of Hawaii. However the Declaration of Horizontal Property Regime executed July 24, 1973 and By-Laws attached were amended by instrument dated September 19, 1975, and recorded as aforesaid in Liber 10937, Page 433.

Condominium File Plan No. 297 was also amended concurrent with the Declaration.

5. No advertising or promotional matter has been filed pursuant to the rules and regulations promulgated by the Commission.

6. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Horizontal Property Act, Chapter 514 of the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regime.

7. This Supplementary Public Report automatically expires on April 6, 1976, unless another Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NOTE: The Developer did request and the Commission did grant an extension on April 9, 1975, of the expiration date of the Final Public Report for twelve (12) months from April 7, 1975 to April 6, 1976.

The information in the topical headings NAME OF PROJECT, DEVELOPER, ATTORNEY REPRESENTING DEVELOPER, DESCRIPTION, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, DESCRIPTION OF PARKING STALLS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, PURCHASE MONEY HANDLING, MANAGEMENT OF THE PROJECT

and STATUS OF PROJECT has been altered as follows. All other topical headings have not been disturbed.

NAME OF PROJECT: The Seller advises that the name of the Project has been changed to "THE BOUGAINVILLE".

DEVELOPER: The Commission has been advised that the information contained in the heading entitled "Developer" in the Final Public Report dated March 6, 1974, has been deleted. The original developer named therein is no longer involved. To distinguish between the Developer and present Seller of the project, the term "Seller" will be used hereinafter to mean the successor of the original developer's interests. Seller of the Project is BankAmerica Realty Investors, a California real estate investment trust, the principal place of business and post office address of which is 555 California Street, San Francisco, California 94104, and The Bougainville Corporation, a Hawaii corporation, whose principal place of business and post office address is Suite 1100 Hawaii Building, 745 Fort Street, Honolulu, Hawaii. The officers of the Seller are listed below:

1. The officers of the The Bougainville Corporation are: Charles R. Wade--President; James M. Wayman--Vice President; Mary P. Witzak--Secretary; and, Edwin E. Greiner--Vice President and Treasurer, all of whose address is Suite 1100 Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813; Phone: 521-0132.

2. The trustees of BankAmerica Realty Investors are Milton J. Brock, Jr., Eugene P. Carver, Kenneth C. Christensen, Curtis E. Smith, Jr., and Francis Herwood, all of whose address is 555 California Street, San Francisco, California 94104. BANKAMERICA REALTY SERVICES, INC., a California corporation, performs the services of advisor to BankAmerica Realty Investors, and is empowered to execute documents on behalf of BankAmerica Realty Investors.

ATTORNEY REPRESENTING SELLER: The attorney representing the Seller is: CONROY, HAMILTON, GIBSON, NICKELSEN & RUSH (Attention: Dwight M. Rush and D. Scott MacKinnon) 20th Floor, Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813, Telephone: 521-2611.

DESCRIPTION: The Seller advises that the Declaration and the Amendment to Declaration indicates a leasehold condominium consisting of twenty (20) three-story buildings containing one hundred forty-one (141) apartments, and that apartment 341, which was to be retained for use as a common element to be occupied by a resident manager, is no longer a common element of the project. Apartment 341 is a typical type "D" unit which is split-level and consists of six (6) rooms, including a bathroom, kitchen, living/dining room, and a lanai on the first level of said apartment, and two (2) bedrooms and a bathroom on the second level of said apartment, the two levels of said apartment being connected by an internal stairway. Further Seller advises that the Description of the Type C and Type D Apartments contained in the Final Public Report dated March 6, 1975, should be deleted and reference made to the description hereinafter set forth:

TYPE C APARTMENTS: There are seventy-four Type C Apartments; each such apartment is a split-level apartment consisting of seven (7) rooms, including a bathroom, kitchen, living/dining room, and a lanai on the first level of each apartment, and three (3) bedrooms and a bathroom located on the second level of each apartment, the two levels of each apartment being connected by an internal stairway. Each of these apartments contains a net floor area of approximately 1,261 square feet together with a lanai of approximately 75 square feet. All Type C Apartments are located on the Second and Third floor of their respective buildings. The Type C Apartments are located in sixteen (16) buildings numbered and designated as follows:

<u>Apartment No.</u>	<u>Building No.</u>	<u>Layout</u>
105	2	Typical
106	2	Reverse
108	2	Typical
109	2	Reverse
111	3	Typical
112	3	Reverse
114	3	Typical
115	3	Reverse
117	3	Typical
118	3	Reverse
120	4	Typical
121	4	Reverse
123	4	Typical
124	4	Reverse
208	6	Typical
209	6	Reverse
214	6	Typical
215	6	Reverse
205	7	Typical
206	7	Reverse
211	7	Typical
212	7	Reverse
220	8	Typical
221	8	Reverse
223	8	Typical
224	8	Reverse
226	8	Typical
227	8	Reverse
229	8	Typical
230	8	Reverse
235	9	Typical
236	9	Reverse
241	9	Typical
242	9	Reverse
238	10	Typical
239	10	Reverse
244	10	Typical
245	10	Reverse
302	11	Typical
303	11	Reverse
305	11	Typical

<u>Apartment No.</u>	<u>Building No.</u>	<u>Layout</u>
306	11	Reverse
311	11	Typical
312	11	Reverse
314	12	Typical
315	12	Reverse
317	12	Typical
318	12	Reverse
320	13	Typical
321	13	Reverse
323	13	Typical
324	13	Reverse
329	14	Typical
330	14	Reverse
332	14	Typical
333	14	Reverse
335	15	Reverse
336	15	Typical
338	15	Reverse
339	15	Typical
405	17	Typical
406	17	Reverse
408	17	Typical
409	17	Reverse
411	18	Typical
412	18	Reverse
414	18	Typical
415	18	Reverse
417	18	Typical
418	18	Reverse
420	19	Typical
421	19	Reverse
423	19	Typical
424	19	Reverse

TYPE D APARTMENTS: There are twenty (20) Type D Apartments, each such apartment is a split-level apartment consisting of six (6) rooms, including a bathroom, kitchen, living/dining room, and a lanai on the first level of each apartment, and two (2) bedrooms and a bathroom on the second level of each apartment, the two levels of each apartment being connected by an internal stairway. Each of these apartments contains a net floor area of approximately 901 square feet together with a lanai of approximately 110 square feet. All Type D Apartments are located on the Second and Third floors of their respective buildings. The Type D Apartments are located in ten (10) buildings numbered and designated as follows:

<u>Apartment No.</u>	<u>Building No.</u>	<u>Layout</u>
102	1	Typical
103	1	Reverse
126	5	Typical
127	5	Reverse
202	6	Typical
203	6	Reverse
217	7	Typical
218	7	Reverse
232	8	Typical
233	8	Reverse
308	12	Typical
309	12	Reverse
326	13	Typical
327	13	Reverse
342	15	Reverse
341	15	Typical
402	16	Typical
403	16	Reverse
426	20	Typical
427	20	Reverse

COMMON ELEMENTS: The Seller advises that apartment No. 341 in building 15 together with parking stall no. 162 are no longer common elements of the project. The Seller further advises that a recreation/paddle tennis court has been added as a common element of the project.

LIMITED COMMON ELEMENTS:

1. Said Amendment to Declaration indicates the deletion of ten (10) parking stalls from the Project and a change in the designation of the parking stalls. Said Amendment to Declaration provides that one or more parking stalls as designated on said condominium file plan by a number, which number is also set forth opposite to the number of each of the respective apartments in Exhibit "C" of said Declaration, shall be appurtenant to and for the exclusive use of each such apartment.

NOTE: The Amendment to Declaration provides that notwithstanding any provision of the Declaration to the contrary, the apartment owners with the approval or consent of the Trustees and of the mortgagee(s) of the affected apartments, shall have the right to change the designation of the parking stalls which are appurtenant to the respective apartments solely by an amendment to the Declaration, such amendment to be executed solely by the respective apartment owners of such apartments, Trustees and the mortgagee(s) thereof, provides that such amendment shall be effective only upon recording the same of record and further provided that at all times at least one parking space shall be appurtenant to each apartment in the Project.

2. The private yards enclosed by fencing and/or hedges herein and on said Condominium File Plan referred

to as "privacy area" A, "privacy area" B, "privacy area" C and "privacy area" D, shall be appurtenant to and for the exclusive use of certain apartments as follows:

<u>Privacy Area</u>	<u>Apartment No.</u>
privacy area A	101
privacy area B	125
privacy area C	401
privacy area D	425

INTEREST TO BE CONVEYED TO PURCHASER: The Seller advises that the Amendment to Declaration has changed the common interest appurtenant to the respective apartments such that each apartment will now have appurtenant thereto an undivided percentage interest in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all purposes including voting, as follows:

<u>UNIT TYPE</u>	<u>NUMBER</u>	<u>COMMON INTEREST PER APARTMENT</u>
A	10	.7752399%
B	37	.731491%
C	74	.731491%
D	20	.552605%

DESCRIPTION OF PARKING STALLS: The Seller advises that this paragraph of the Final Public Report dated March 6, 1974, has been deleted and that reference should be made to the paragraph of this Supplementary Public Report concerning "Limited Common Elements".

OWNERSHIP OF TITLE: The Seller advises that it is the present holder of that certain Indenture of Lease dated January 2, 1973, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 8877, Page 399 (herein the "Master Sublease"), by Assignment of Lease dated July 10, 1975, recorded as aforesaid in Liber 10786, Page 526. Seller further advises, and this is confirmed by a Preliminary Report issued by Security Title Corp. dated October 1, 1975, that title to the Master Sublease is held as tenants-in-common as follows:

An undivided 85.7% interest in and to said Master Sublease unto BankAmerica Realty Investors;

And the remaining undivided 14.3% interest in and to said Master Sublease unto The Bougainville Corporation.

ENCUMBRANCES AGAINST TITLE: Since issuance of the Final Public Report on March 6, 1974, many events have occurred that render obsolete the Preliminary Title Report issued by Hawaii Escrow & Title on January 24, 1974, which was referred to in said Final Public Report. The Seller has submitted a new Preliminary Title Report prepared by Security Title Corp. dated October 1, 1975. This latest

Title Report and other recent submittals by Seller reflect the following encumbrances:

1. Tax Key: 9-8-39-1 - Area Assessed: 233,357 Square Feet

Any real property taxes due and owing as of October 1, 1975.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent No. 1963.

3. Existing easement 1 (46 feet wide) for flowage purposes situate within and running along the North Boundary of Lot 1, as delineated on File Plan No. 1296 and File Plan No. 1325.

4. Existing easement 26 for drainage purposes affecting Lot 1, as delineated on File Plan No. 1296 and File Plan No. 1325.

5. Easement "A" for electrical purposes affecting Lot 1, as delineated on File Plan No. 1325.

6. Grant dated August 15, 1968, recorded on November 21, 1968 in the Bureau of Conveyances of the State of Hawaii in Book 6303 Page 182, in favor of the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, granting forever, an easement to construct, etc., a drainage structure, etc., through, under and across Easement 26 (also affects other property).

7. Grant dated November 1, 1968, recorded on April 9, 1969 in said Bureau of Conveyances in Book 6470 Page 396, in favor of the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii "CITY", granting easement 26 over and across the land herein described (also affects other property).

8. The terms and provisions of that certain Lease No. 21,380 dated December 1, 1972, recorded on January 17, 1973 in said Bureau of Conveyances in Book 8877 Page 375, made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, as Lessors, and CENTRAL OAHU LAND CORPORATION, a Hawaii corporation, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, which corporations are associated in a joint venture known as CENTRAL-TROUSDALE, as Lessee, for a term of TWENTY-SEVEN (27) YEARS, commencing on the first day of December, 1972.

9. The terms and provisions of that certain Lease herein referred to.

10. Leasehold Mortgage and Security Agreement dated April 3, 1973, recorded on April 4, 1973 in said Bureau of

Conveyances in Book 9051 Page 189, made by SHELTER CORPORATION, a Hawaii corporation, as Mortgagor, to KASSLER & CO., a Colorado corporation, duly qualified and doing business in the State of Hawaii, as Mortgagee, to secure the repayment of the sum of \$7,000,000.00, any additional advances and other amounts secured thereby, all according to the terms of that certain promissory note of said mortgagor therein referred to.

By unrecorded instrument dated July 10, 1975, the foregoing mortgage was assigned to BANKAMERICA REALTY INVESTORS, a California Real Estate Investment Trust and THE SUNDOWNER TOWNHOUSE CORPORATION, a Hawaii corporation.

11. Undated Financing Statement recorded on April 4, 1973 in said Bureau of Conveyances in Book 9051 Page 223, a copy of which is attached hereto as Exhibit "A".

12. The terms and provisions of that certain Building Loan Agreement dated April 3, 1973, recorded on April 4, 1973 in said Bureau of Conveyances in Book 9051 Page 227, made by and between KASSLER & CO., a Colorado corporation authorized to do business in the State of Hawaii ("Kassler") and SHELTER CORPORATION, a Hawaii corporation ("Company"), to which reference is hereby made.

13. The Condominium Map No. 297, recorded in said Bureau of Conveyances on August 7, 1973.

14. The covenants, agreement, obligations, conditions, and other provisions as set forth in that certain DECLARATION OF HORIZONTAL PROPERTY REGIME THE SUNDOWNER, dated July 24, 1973, recorded on August 7, 1973 in said Bureau of Conveyances in Book 9376 Page 131, and the By-Laws attached thereto, to which reference is hereby made.

15. Grant dated January 11, 1974, recorded on February 7, 1974 in said Bureau of Conveyances in Book 9728 Page 237, made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, as Grantors, and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, as Grantee, and CENTRAL-TROUSDALE, a joint venture consisting solely of CENTRAL OAHU LAND CORPORATION, a Hawaii corporation and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation, authorized to do business in Hawaii, as Lessee, and SHELTER CORPORATION, a Hawaii corporation, as Sublessee, granting a perpetual right and easement to build, etc., underground power lines, etc., for the transmission of electricity over, across, through and under Easement A, within Lot 1 of the Sundowner, Phase 1-A. Consent thereto recorded in Book 9728 Page 241.

"RESERVING, HOWEVER, unto the Grantors, their lessees, and tenants full use of the land within the right of way easement except for the areas actually occupied by the materials and equipment of the Grantee, such reserved right to be used in a manner that will not interfere with

its lines and equipment, and no structures will be placed, erected or maintained by the Grantors, their lessees or tenants within the easement area."

16. Undated Financing Statement recorded on November 27, 1974 in said Bureau of Conveyances in Book 10262 Page 336, a copy of which is attached hereto as Exhibit "B".

17. Amendments to Declaration of Horizontal Property Regime, Condominium File Plan No. 297, and By-Laws dated September 19, 1975 and recorded on September 30, 1975 at said Bureau of Conveyances in Book 10937 Page 433.

PURCHASE MONEY HANDLING: The Seller advises that a new Escrow Agreement dated September 18, 1975, between Landmark Escrow, Ltd., as Escrow, and Seller has been filed with the Commission. Upon examination, the specimen Condominium Sales Agreement, specimen Agreement of Sale and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes.

The specimen Condominium Sales Agreement contains the following provisions:

1. "Buyer hereby agrees that until Seller has closed out the sale of all the apartments in the condominium project or until December 30, 1979, whichever shall first occur, Buyer will not enter into an agreement with any purchaser, lessee or owner of another apartment in the condominium project and/or any third party under which Buyer agrees to share expenses and/or rentals of apartments in the condominium project."

2. That purchaser will accept the apartment in its present condition and that there are no express or implied warranties, including any implied warranty of merchantability or fitness of the apartment for a particular purpose.

NOTE: While the specimen Condominium Sales Agreement anticipates that purchasers will obtain their own permanent financing, the Seller has advised the Commission that it does not intend to obtain a commitment from a lending institution for such financing. Instead, Seller will offer purchasers a 5-year agreement of sale with a minimum down payment of 5% of the sales price.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before signing the Condominium Sales Agreement since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's funds. The Condominium Sales Agreement specifically provides that the purchaser approve said Escrow Agreement and assume the benefits and obligations therein provided. Purchasers and prospective purchasers are advised to read with care the provisions of the Condominium Sales Agreement.

MANAGEMENT OF THE PROJECT:

NOTE: The Seller advises that it is not offering to provide services relating to the sale or rental of apartments of the project and that no representation or reference to that effect has been made or will be made by or on behalf of the Seller. Rental of the apartments with the provision of management services in connection therewith is and shall be the sole responsibility of the purchaser.

STATUS OF PROJECT: The Seller advises that the project has been completed as evidenced by the Notice of Completion dated August 26, 1975.

The purchaser or prospective purchaser should be cognizant of the fact that this Report represents information disclosed by the Seller in the required Notice of Intention submitted July 31, 1973, and information subsequently filed on February 6, 1974, and October 16, 1975.

This SUPPLEMENTARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 600 filed with the Commission on July 31, 1973.

The report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be pink.

Douglas R. Sodehani
(for) DOUGLAS R. SODETANI, 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. 600

OCTOBER 17, 1975