

**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

2121 ALA WAI  
Waikiki, Honolulu, Hawaii

REGISTRATION NO. 760

**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 : November 1, 1977  
Expires: December 1, 1978

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers 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 ON SEPTEMBER 8, 1977, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 31, 1977. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES, AS AMENDED.

1. 2121 ALA WAI is a proposed leasehold condominium project consisting of a forty-one (41) story building containing two hundred and eleven (211) apartment units, all to be built in accordance with floor plans filed with the Real Estate Commission. The project will contain two hundred and sixty-seven (267) parking spaces.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the receipt for this Preliminary Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.
3. No advertising and promotional matter has been submitted to the Real Estate Commission.
4. The basic documents (Master Lease, Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the Floor Plans) have not been recorded in the office of the recording officer.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514 of the Hawaii Revised Statutes, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, November 1, 1977, 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.

NAME OF PROJECT: 2121 ALA WAI

LOCATION: The project is located on Ala Wai Boulevard between Launiu Street and Kaiolu Street. The land consists of 30,268 square feet, more or less.

TAX KEY: First Division, 2-6-17; parcels 3, 27, 32, 35, 36, 43 and 66.

ZONING: H-2

DEVELOPER: 2121 Ala Wai Development Corp., a Hawaii corporation, whose principal place of business is 1200 College Walk, Room 2-A, Honolulu, Hawaii 96817 (Telephone No.: 524-4830). The officers of the corporation are:

Frederick M. Kresser  
Charles J. Heitzman  
Glenn T. Yasue

President  
Vice President  
Secretary & Treasurer

ATTORNEY REPRESENTING DEVELOPER: Damon, Shigekane, Key & Char, 10th Floor, City Bank Building, Honolulu, Hawaii, 96813 (Attn: Charles W. Key or William J. Shannon), Telephone No.: 531-8031.

DESCRIPTION OF THE BUILDING: The project consists of one (1) building without a basement, containing forty-one (41) floors and constructed primarily of concrete, glass, concrete block, steel and aluminium.

DESCRIPTION OF THE APARTMENTS: The Horizontal Property Regime provides for two hundred and eleven (211) apartments designated in the spaces within the perimeter and party walls, floors and ceilings of each apartment unit of the project, which spaces together with the appurtenant lanai spaces are referred to as "apartments" and are described as follows:

(a) Apartment Numbers and Location: Apartment M-1 is a type "G" apartment, is a split-level design, and is entered from the fourth floor.

The remaining apartments are located on floors seven (7) to forty-one (41) with six apartments per floor. They are numbered from Ewa to Diamond Head, with apartments 101 to 106 on the seventh floor, 201 to 206 on the eighth floor, 301 to 306 on the ninth floor, and so forth up to 3501 to 3506 on the forty-first floor.

(b) Layout and Area of Individual Apartments: Apartment M-1 consists of two bedrooms, one bathroom, kitchen and living room area and has an approximate floor area of 722 square feet and has no lanai.

All remaining apartments consist of two bedrooms, one bathroom, kitchen, living/dining room area, and lanai; these apartments are arranged according to six different floor plans labeled A through F on each floor from Ewa to Diamond Head, and the approximate area of each is as follows: Type A: 666 sq. ft. enclosed, 156 sq. ft. lanai, 822 sq. ft. total; Type B: 661 sq. ft. enclosed, 108 sq. ft. lanai, 769 sq. ft. total; Type C: 661 sq. ft. enclosed, 118 sq. ft. lanai, 779 sq. ft. total; Type D: 661 sq. ft. enclosed, 118 sq. ft. lanai, 779 sq. ft. total; Type E: 661 sq. ft. enclosed, 108 sq. ft. lanai, 769 sq. ft. total; Type F: 661 sq. ft. enclosed, 118 sq. ft. lanai, 779 sq. ft. total.

(c) Access to Common Elements: Each apartment has immediate access to a corridor which leads to two (2) stairways and three (3) elevators, each stairway and elevator leading to the grounds of the project.

(d) Other Data Identifying and Defining the Apartments: The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, awnings, floor or ground and ceiling surrounding each of the apartments or any pipes, wires, conduits, other utility or service lines which are utilized for or serve more than one apartment, the same being common elements. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, the inner decorated or finished surfaces of all walls, floors and ceilings, doors and door frames, windows and window frames, the lanai air space (if any), and all fixtures originally installed in the apartment.

COMMON ELEMENTS: The Declaration of Horizontal Property Regime states that the common elements shall include all the remaining portions of the project including specifically, but not limited to:

(a) Said land in fee simple;

(b) All structural construction such as foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, exterior stairs and stairways, fire escapes, entrances, exits, floor slabs, unfinished perimeter, party and load-bearing walls, awnings and walkways of said buildings;

(c) All common spaces such as yards, gardens, planting areas, swimming pool, picnic areas, other recreational facilities, storage space, trash collection areas, all parking areas and all driveways, access lanes and ramps leading to the parking areas;

(d) All common premises such as the Manager's office, storage room, electrical room, premises for lodging or use of janitors or other persons employed for the operation of the property.

(e) Installations for services such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under, or across the project which serve more than one apartment for services such as power, light, gas, hot water, cold water heating, refrigeration, air conditioning, incineration, sewage, telephone and television signal distribution, if any;

(f) Apparatus and installations existing for common use, such as elevators, escalators, tanks, pumps, motors, fans, compressors, ducts and other such installations and apparatus.

(g) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(h) The 10 guest parking spaces shown on the plans as the parking spaces numbered 133-138 and 141-144.

LIMITED COMMON ELEMENTS: The Declaration of Horizontal Property Regime provides that certain parts of the common elements, called "limited common elements" are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

(a) Each apartment shall have for its exclusive use one parking space, as designated in the schedule set forth in Exhibit C to the Declaration of Horizontal Property Regime, incorporated herein by this reference.

(b) All remaining parking spaces, except the ten (10) guest parking spaces, shall be for the exclusive use of such apartments as the Lessor shall designate in its sole discretion.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall 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 other purposes, including voting, as follows:

<u>Apartment Unit Type (Apt. No.)</u>	<u>Undivided Percentage Interest</u>	<u>Number of Apartments</u>	<u>Total Undivided Percentage Int.</u>
A (101, 201...3501)	.4978%	35	17.4230%
B (102, 202...3502)	.4657%	35	16.2995%
C (103, 203...3503)	.4717%	35	16.5095%
D (104, 204...3504)	.4717%	35	16.5095%
E (105, 205...3505)	.4657%	35	16.2995%
F (106, 206...3506)	.4717%	35	16.5095%
G (M-1)	.4495%	1	.4495%
			100.0000%

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration of Horizontal Property Regime provides that the apartments may be occupied and used for any legal purpose.

OWNERSHIP OF TITLE: The Preliminary Reports issued by Long & Melone, Ltd. dated August 17, 1977, and September 6, 1977, and the Lien Letter Report and Continuation of Lien Letter Report issued by Title Guaranty of Hawaii, Incorporated, dated August 4, 1977, and August 29, 1977, respectively, reflect that title to the land is held as follows:

- (a) TMK 2-6-17:3 - Marie Nicholus Roberts York
- (b) TMK 2-6-17:27 - Frederick M. Kresser
- (c) TMK 2-6-17:32 and 36 - Donald Willis Salter  
and Ruth Alberta Salter
- (d) TMK 2-6-17:35 - DMA/Hawaii, Inc.
- (e) TMK 2-6-17:43 - Henry Mariano Felix and  
Kenneth Kenkichi Sato
- (f) TMK 2-6-17:66 - Thomas Susumu Harimoto and  
Shizue Hayashi Matsuda

Copies of executed but undated Warranty Deeds granting fee simple title to 2121 Ala Wai Development Corp. from each of the above enumerated owners are presently on file with the Real Estate Commission. The Developer has advised the Real Estate Commission that 2121 Ala Wai Development Corp. has a commitment from First Hawaiian Bank for a construction loan for the project and that the original executed Warranty Deeds have been deposited in escrow with Long & Melone Escrow, Ltd. Said Deeds will be dated and released from escrow upon the closing of the aforementioned loan, which closing is scheduled to occur by November 11, 1977.

The Developer intends to consolidate these parcels in the hands of Frederick Mosson Kresser and Tecon Services, Inc., a Nevada corporation duly registered and qualified to do business in Hawaii, and the individual apartment leases to be issued to the purchasers will be executed by those parties or their successors, as Lessor, to the apartment purchasers, as Lessees.

ENCUMBRANCES AGAINST TITLE:

(a) As to Tax Map Key No. 2-6-17:3, a Preliminary Report prepared by Long & Melone, Ltd. states that as of the date of the search (August 17, 1977), title to the land is subject to:

1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:3.

2. Grant of Easement in favor of Hawaiian Electric Company, Inc., dated July 24, 1933, filed as Land Court Document No. 28853, for utility purposes located through, along, across and under Lot 7-B.

3. Grant of Easement in favor of Hawaiian Telephone Company for perpetual right to be used in common with Hawaiian Electric Company, Inc., dated April 12, 1954, filed as Land Court Document No. 164183, for utility purposes located along, across and under Lot 7-B.

4. Easement for sewer purposes, over Lot 7-B, in favor of City and County of Honolulu acquired by Final Order of Condemnation filed October 15, 1968, in the First Circuit Court with Civil No. 23508, and also filed October 21, 1968, as Land Court Document No. 457373.

5. Mechanic's and Materialmen's Lien No. 3118 filed July 22, 1975, in the First Circuit Court, State of Hawaii, Lienor--Larry Medeiros, Inc.; Owners--2121 Ala Wai Development Corporation, a Hawaii corporation, Marie N. R. York, Mollie P. Lalakea, Donald W. Salter, Ruth A. Salter, Marie C. Vitacula, Trust Estate, Thomas S. Harimoto and Shizue H. Matsuda; Respondents--2121 Ala Wai Development Corporation; Amount--\$1,500.00 (not noted on Transfer Certificate of Title No. 47,536).

(b) As to Tax Map Key No. 2-6-17:27, a Preliminary Report prepared by Long & Melone, Ltd. states that as of the date of the search (September 6, 1977), title to the land is subject to:

1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:27.

2. Title to all mineral and metallic mines reserved to the State of Hawaii.

3. AS TO PARCEL FIRST THEREOF ONLY:

The reservation contained in that certain Deed from Mildred Marshall, widow, to Edward Chiate and Julie Souza Chiate, husband and wife, dated February 14, 1940, and recorded in Book 1547, Page 358.

4. Mortgage and Financing Statement by and between Mollie P. Lalakea, widow, as Mortgagor, and Hawaiian Life Insurance Co., Ltd., as Mortgagee, dated April 26, 1971, recorded in the Bureau of Conveyances in Book 7508, Page 239, securing \$74,000.00.

5. Mortgage by and between Mollie P. Lalakea, widow, as Mortgagor, and Paco Development Corporation, a Hawaii corporation, as Mortgagee, dated August 6, 1974, recorded in the Bureau of Conveyances in Book 10080, Page 502, securing \$85,880.00.

6. Assignment of Mortgage by and between Paco Development Corporation, a Hawaii corporation, as Assignor, and Carl H. Vaas and Ingeborg Vaas, husband and wife, as joint tenants, as Assignee, dated August 7, 1974, recorded in the Bureau of Conveyances in Book 10080, Page 513, assigning Mortgage recorded in Book 10080, Page 502; consent thereto given by Lalakea Corporation and Carlsmith Development Corporation.

7. Partial Assignment of Mortgage by and between Carl H. Vaas and Ingeborg Vaas, husband and wife, as joint tenants, as Assignor, and Edward Schedl and Dolores Schedl, husband and wife, as joint tenants, as Assignee, dated July 9, 1976, recorded in the Bureau of Conveyances in Book 11540, Page 592, assigning Mortgage recorded in Book 10080, Page 502, as security for that certain loan in the amount of \$50,000.00, together with interest thereon.

8. Mechanic's and Materialmen's Lien filed July 22, 1977, in the First Circuit Court, State of Hawaii, with M. L. No. 3118, Lienor--Larry Medeiros, Inc.; Owners--2121 Ala Wai Development Corporation, a Hawaii corporation, Marie N. R. York, Mollie P. Lalakea, Donald W. Salter, Ruth A. Salter, Marie C. Vitacula, Trust Estate, Thomas S. Harimoto and Shizue H. Matsuda; Respondents--2121 Ala Wai Development Corporation; Amount--\$1,500.00.

(c) As to Tax Map Key No. 2-6-17:32 and 36, a Preliminary Report prepared by Long & Melone, Ltd. states that as of the date of the search (August 17, 1977), title to the land is subject to:

1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:32 and 36.

2. AS TO PARCEL 32 THEREOF ONLY:

(a) Grant of Easement in favor of Hawaiian Electric Company, Inc., dated July 24, 1933, filed as Land Court Document No. 28853, for utility purposes located through, along, across and under Lot 6-B.

(b) Grant of Easement in favor of the City and County of Honolulu, dated January 25, 1967, filed as Land Court Document No. 411178, for sewer purposes located over said Lot 6-B.

3. AS TO PARCEL 36 THEREOF ONLY:

(a) Grant of Easement in favor of Hawaiian Electric Company, Inc., dated July 24, 1933, filed as Land Court Document No. 28853, for utility purposes located through, along, across and under Lot 5-B.

(b) Grant of Easement in favor of Hawaiian Telephone Company, to be used in common with Hawaiian Electric Company, Inc., dated April 12, 1954, filed as Land Court Document No. 164187, for utility purposes located along, across and under Lot 5-B.

(c) Grant of Easement in favor of the City and County of Honolulu, dated January 6, 1967, filed as Land Court Document No. 410767, for sanitary sewer purposes located through, under and across Lot 5-B.

4. AS TO BOTH PARCELS 32 AND 36 THEREOF:

(a) Mechanic's and Materialmen's Lien No. 3118 filed July 22, 1975, in the First Circuit Court, State of Hawaii; Lienor--Larry Medeiros, Inc.; Owners--2121 Ala Wai Development Corporation, a Hawaii corporation, Marie N. R. York, Mollie P. Lalakea, Donald W. Salter, Ruth A. Salter, Marie C. Vitacula, Trust Estate, Thomas S. Harimoto and Shizue H. Matsuda; Respondents--2121 Ala Wai Development Corporation; Amount--\$1,500.00 (not noted on Transfer Certificates of Title Nos. 118,460 or 54,668).

(d) As to Tax Map Key No. 2-6-17:35, a Lien Letter Report prepared by Title Guaranty of Hawaii, Incorporated, dated August 4, 1977, and updated by a Continuation of Lien Letter Report dated August 29, 1977, shows that the land is subject to:

1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:35.

2. Deed by and between First Hawaiian Bank, a Hawaii corporation, Trustee Under the Will and of the Estate of Marie Cancimilla Vitacula, Deceased, filed as Document No. 695898, in trust, as Grantor, and DMA Hawaii, Inc., a Hawaii corporation, as Grantee, dated August 18, 1977, filed as Land Court Document No. 832244, for which new Transfer Certificate of Title No. 193,079 has been issued.

3. A grant of perpetual right and easement in favor of Hawaiian Electric Company, Inc., to build, construct, rebuild, re-construct, repair and maintain distribution boxes, underground conduits, cables and other appliances or equipment for electric light, power and/or telephone lines in, through, along, across and under Lot 4-B, dated July 24, 1933, and filed as Land Court Document No. 28853.

4. A Grant of Easement in favor of Hawaiian Telephone Company, to be used in common with Hawaiian Electric Company, Inc., to build etc. for telephone communication across said Lot 4-B, dated July 19, 1954, and filed as Land Court Document No. 170062.

5. A Grant of Easement in favor of Hawaiian Telephone Company, to be used in common with Hawaiian Electric Company, Inc., to build etc. for electrical purposes, across said Lot 4-B, dated April 12, 1954, filed as Land Court Document No. 186386.

(e) As to Tax Map Key No. 2-6-17:43, a Preliminary Report prepared by Long & Melone, Ltd. states that as of the date of the search (August 17, 1977), title to the land is subject to:

1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:43.

2. AS TO SECOND AND THIRD PARCELS THEREOF ONLY:

Title to all mineral and metallic mines reserved to the State of Hawaii.

3. AS TO PARCEL SECOND THEREOF ONLY:

(a) Reservation in favor of Edward Chiate and Julia Souza Chiate, husband and wife, their heirs and assigns, a perpetual easement for road and utility purposes over a strip of land containing an area of 289 square feet, as reserved in Deed from Edward Chiate and Julia Souza Chiate, husband and wife, to Marion Damien Medeiros and Rose Lopez Medeiros, husband and wife, dated October 20, 1950, recorded in the Bureau of Conveyances in Book 2391, Page 263.

(b) An easement in favor of and as appurtenant to the piece of land situate on the Southwest side of the lot hereby conveyed for laying and maintaining an underground pipe for sewer under and along a strip of land five feet in width on the rear or Southeasterly boundary of the above-described lot, as set forth in said Deed recorded in Book 3348, Page 146.

4. AS TO PARCEL THIRD THEREOF ONLY:

(a) Reservation in favor of Edward Chiate and Julia Souza Chiate, husband and wife, their heirs and assigns, a perpetual easement for road and utility purposes over and across a strip of land containing an area of 61 square feet, as reserved in said Deed recorded in Book 2391, Page 263.

5. AS TO ALL PARCELS:

(a) Agreement of Sale by and between Henry Mariano Felix, unmarried, and Kenneth Kenkichi Sato, husband of Myrtle Yoshiko Sato, as Vendor, and Carlsmith Development Corporation, a Hawaii corporation, as Vendee, dated September 26, 1974, filed as Land Court Document No. 700180, and also recorded in the Bureau of Conveyances in Book 10213, Page 525, the consideration being \$675,000.00; consent required for assignment or sale of Vendee's interest.

NOTE: The corporate name of Carlsmith Development Corporation was changed to 2121 Ala Wai Development Corp. by Certificate of Change of Name dated October 1, 1974, recorded in the Bureau of Conveyances in Book 10165, Page 528, as set forth by Land Court Order No. 40861, filed October 31, 1974.

(b) Mortgage by and between Henry Mariano Felix, unmarried, Kenneth Kenkichi Sato, husband of Myrtle Yoshiko Sato, and 2121 Ala Wai Development Corp., a Hawaii corporation, as Mortgagor, and Jordan Leisure, Inc., a Hawaii corporation, as Mortgagee, dated February 10, 1975, filed as Land Court Document Nos. 710987 and 710988, and also recorded in the Bureau of Conveyances in Book 10462, Page 193, to secure \$154,875.00 (wife releases dower); said Mortgage was assigned by mesne assignments to Ross/Lilikoi, Inc., a Hawaii corporation, by Assignment of Mortgage dated September 29, 1975, filed as Land Court Document No. 737532, and also recorded in the Bureau of Conveyances in Book 10952, Page 485.

(c) NOTE: Power of Attorney from Kenneth Kenkichi Sato to Myrtle Yoshiko Sato, dated September 11, 1974, filed as Land Court Document No. 700179, and also recorded in the Bureau of Conveyances in Book 10213, Page 522, giving general powers.

- (d) Civil No. 48071 filed April 19, 1976, in the First Circuit Court, State of Hawaii, Ross/Lilikoi, Inc., Ross/Ala Wai, Inc. and Michael M. Ross vs. 2121 Ala Wai Development Corporation, Henry M. Felix and Kenneth K. Sato re: to foreclose that certain Mortgage filed as Land Court Document No. 710987 and also recorded in the Bureau of Conveyances in Book 10462, Page 193; pending (not noted on Transfer Certificate of Title No. 69,901).
- (e) Civil No. 45698 filed July 22, 1975, in the First Circuit Court, State of Hawaii, Henry M. Felix and Kenneth K. Sato vs. 2121 Ala Wai Development Corporation re: to cancel that certain Agreement of Sale filed as Land Court Document No. 700180, and also recorded in the Bureau of Conveyances in Book 10213, Page 525, for nonpayment; pending (not noted on Transfer Certificate of Title No. 69,901).
- (f) Judgment -- John Child & Company, Inc., a Hawaii corporation, as Plaintiff, and Carlsmith Development Corporation, a Hawaii corporation, and 2121 Ala Wai Development Corp., a Hawaii corporation, as Defendants; Amount--\$1,261.59; dated April 13, 1977, filed in the District Court, First Circuit, Honolulu Division, State of Hawaii, Civil No. H-76-1883, recorded April 29, 1977, in the Bureau of Conveyances in Book 12165, Page 214.
- (g) Right of dower of wife, if any, of Henry Mariano Felix.
- (f) As to Tax Map Key No. 2-6-17:66, a Preliminary Report prepared by Long & Melone, Ltd. states that as of the date of the search (August 17, 1977), title to the land is subject to:
1. Real property taxes - for further information, check with the Tax Assessor, Second Division, on Tax Key 2-6-17:66.
  2. AS TO LOT 58 THEREOF ONLY:
    - (a) Easements for public utilities as noted on Applicant's Map filed therewith.
    - (b) An Agreement dated March 13, 1940, between John H. Magoon, Alfred K. Magoon and Eaton H. Magoon, Trustees, et al, as Grantors, and Hawaiian Electric Company, Inc., as Grantee, the original of which agreement is on file in the Office of the Clerk of the Land Court.
    - (c) Stipulation dated August 7, 1940, filed in the Office of the Clerk of the Land Court.
    - (d) Grant of Easement in favor of Hawaiian Electric Company, Inc., dated March 17, 1958, filed as Land Court Document No. 219833, to build, etc. underground power line, etc. for utility purposes, extending 5 feet from and parallel to the Northwest boundary of Lot 58, as shown on Hawaiian Electric Company, Inc.'s Map No. 58-53.

3. AS TO LOTS 7 AND 58 THEREOF:

(a) Covenants as contained in Deed made by Hawaiian Trust Company, Limited, Trustee Under Deed of Trust from Elizabeth K. Booth, et al, to Herman Hubert Higgins and Elizabeth Lee Higgins, husband and wife, dated May 27, 1944, filed as Land Court Document No. 73429, more fully set forth as follows:

(1) That they hereby assume and agree to pay any and all assessments which may hereafter be levied against the above-described premises in connection with the completion of Kaiolu Street.

(2) That said Lot 58 of Land Court Application 1293 shall become inseparably attached to and be a part of said Lot 7 of Land Court Application 830, which it adjoins, and that said Lots 58 and 7 will at no time be used, conveyed, leased, mortgaged or otherwise dealt with separately.

(3) That for any breach or failure in the observance or performance of covenant 2 above to be observed and performed by the Grantees, the Grantor or all or any owners of any lots forming a portion of Land Court Application Nos. 830 and 1293, or any portions of said lots, shall have a remedy by action for damages, suit for injunction, mandatory or restraining, or any other appropriate remedy; and the adoption or pursuit or any one remedy for or the waiver of or acquiescence in such breach or failure shall not preclude or prevent the adoption or pursuit of any other remedy thereafter for such breach or failure.

(b) Mechanic's and Materialmen's Lien No. 3118 filed July 22, 1975, in the First Circuit Court, State of Hawaii; Lienor-- Larry Medeiros, Inc.; Owners--2121 Ala Wai Development Corporation, a Hawaii corporation, Marie N. R. York, Mollie P. Lalakea, Donald W. Salter, Ruth A. Salter, Marie C. Vitacula, Trust Estate, Thomas S. Harimoto and Shizue H. Matsuda; Respondents--2121 Ala Wai Development Corporation; Amount--\$1,500.00 (not noted on Transfer Certificate of Title No. 167,779).

PURCHASE MONEY HANDLING: A Specimen Sales Contract and the Escrow Agreement have been submitted to the Real Estate Commission as part of the registration. The Escrow Agreement dated October 27, 1977, identified Long & Melone Escrow, Ltd. as the Escrow agent. Upon examination, a Specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly with §514-14, §514-15(b) and §514-36 through §514-40. The provisions of the Sales Contract and the Escrow

Agreement should be carefully read by the purchasers. The Specimen Sales Contract filed as a part of the registration recites the conditions under which the purchaser acknowledges receipt of the Public Report.

Among other provisions, the Escrow Agreement provides that the purchaser shall be entitled to a refund of his funds only upon receipt of evidence satisfactory to Escrow from the seller or purchaser under a Sales Contract or both that the conditions provided in such Sales Contract for such a refund have been met, or that the conditions provided in the Horizontal Property Act for such a refund have been met.

The Specimen Sales Contract provides that the seller may cancel the Sales Contract if any material discrepancies are discovered between the financial information furnished by the purchaser and the purchaser's actual financial status. Seller may also cancel if the purchaser's application or eligibility for a mortgage loan is rejected or not approved within sixty (60) days after application. If purchaser proposes to pay the purchase price in cash and seller, in its sole discretion, after reviewing the written evidence submitted to it by purchaser, determines that seller is not satisfied as to purchaser's ability to make such cash payments, then seller may cancel the Sales Contract. Seller may also cancel the Sales Contract if less than 150 apartments are sold by December 31, 1978, or if the purchaser should die, or if the purchaser should attempt to assign his rights under the Sales Contract without the prior written consent of the seller, or if the seller encounters unexpected delays in the development and construction of the project leading to increases in development and construction costs requiring increases in apartment sales prices to maintain financial feasibility of the project. If the Master Lease is terminated for any reason, including, without limitation, a termination pursuant to the seller's rights to terminate the Master Lease as provided therein, then such termination shall automatically cancel and extinguish the Sales Contract. Seller may also cancel the Contract if purchaser refuses to inspect his apartment, to sign an inspection sheet, or to accept possession of the property upon request by the seller.

Among other provisions, the Specimen Sales Contract provides that the seller's mortgage loan (interim, renewals and extensions, used for the construction of the project) shall be and remain at all times a lien or charge on the project, including the individual apartments, prior to and superior to any and all other liens or charges on the project, and the purchasers intentionally waive, relinquish and subordinate the priority or superiority of any lien they may have under the Sales Contract or prior reservation agreement in favor of the lien or charge on the project of the security interest of the lender. The purchasers also consent to seller's assignment by way of security of seller's interest in the Sales Contracts and purchasers' escrow deposits to the lender.

The Specimen Sales Contract also provides that the seller has made no representations with respect to the possibility or probability of rental or other income from the apartment, or other economical benefits to be derived from the rental of the apartment, including but not limited to, any representations to the effect that seller or the managing agent of the project

will provide services relating to the rental or sale of the apartment nor representations as to possible advantages from the rental of the apartment under federal or state tax laws. If purchaser wishes to rent the apartment to third persons, purchaser must make his own arrangements. Purchaser further agrees that he will not enter into an agreement to share expenses and/or rentals of apartments in the condominium project with any third party until the seller has closed the sale of all apartments in the project or until the expiration of fifteen (15) years from the date of recordation of the purchaser's apartment lease, whichever shall first occur.

The Specimen Sales Contract also provides that the purchaser will pay all closing costs, including but not limited to, the escrow fee, conveyance taxes, all acknowledgment fees, all recording costs, charges for purchaser's credit report, costs for drafting of the mortgage and notes, and any assignment thereof, and costs of any title insurance. All applicable mortgage costs shall be paid by purchaser, and purchaser shall pay three (3) months prepaid lease rent, plus the nonrefundable start-up fee for commencement of the operations of the project by the managing agent and the Association of Apartment Owners. Real property taxes, lease rent, maintenance costs and other prorations shall be made, and risk of loss shall transfer from seller to purchaser on the Closing Date as defined in the Specimen Sales Contract.

It is incumbent upon purchasers and prospective purchasers that they read with care the Specimen Sales Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of the condominium units are placed in trust, as well as the retention and the disbursement of funds.

BY-LAWS: The By-Laws attached to the proposed Declaration provide that no animals shall be allowed on the premises except that household pets in reasonable number may be kept in apartments of owners.

MANAGEMENT AND OPERATION: The proposed Declaration provides that the operation of the project shall be conducted for the Association of Apartment Owners by a responsible corporate managing agent. The managing agent shall be appointed by the Association and approved by the Lessor, in accordance with the By-Laws, except that the managing agent for the initial two (2) year period after the Declaration is filed may be appointed by the Developer without necessity of confirmation by the Association.

STATUS OF PROJECT: The Developer advises that construction of the project has commenced and that completion is scheduled for about March 1979.

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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 Notice of Intention submitted September 8, 1977, and information subsequently filed as of October 31, 1977.

This PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 760, filed with the Commission on September 8, 1977.

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.

  
AH KAU YOUNG, Chairman  
Real Estate Commission  
State of Hawaii

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November 1, 1977