

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
THE KALAKAUAN
1911 Kalakaua Avenue
Honolulu, Hawaii

REGISTRATION NO. 761

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, Issued: March 31, 1975
- (3) His receipt taken therefor. Expires: April 30, 1976

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 MARCH 14, 1975, AND INFORMATION FILED AS OF MARCH 31, 1975. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME LAW, HAWAII REVISED STATUTES, CHAPTER 514.

1. "THE KALAKAUAN" is a proposed leasehold condominium project consisting of two (2) commercial units, sixty-one (61) residential units, twenty-eight (28) parking units and eight (8) commercial parking units. "The Kalakauan" has been used for rental purposes since it was originally built on or about December 17, 1966, as evidenced by the Notice of Completion and Affidavit of Publication, which is on file with the Commission.

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.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the approved Floor Plans) have not been filed in the Office of the recording officer.
4. No preliminary advertising and promotional matter have been submitted pursuant to rules and regulations promulgated by the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Hawaii Revised Statutes, Chapter 514, 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 the date of issuance, March 31, 1975, unless a Supplementary Public Report is published or the Commission, upon review of registration, issues an order extending the effective period of this report.

NAME OF PROJECT: The Kalakauan.

LOCATION: The site of the project is located on the south side of Kalakaua Avenue, consists of a total land area of 11,055 sq. ft., and has a mailing address of 1911 Kalakaua Avenue which is in the District of Waikiki, Oahu, Hawaii.

TAX KEY: 2-6-07-04

ZONING: Apartment Zoning

DEVELOPER: Spirit of Hawaii, Inc., Suite 1800, 745 Fort Street, Honolulu, Hawaii, 96813.

Thomas R. Kelso	President	745 Fort Street, Suite 1800, Hon., Hi.
Burt L. Snyder	Vice President	same as above
Thomas L. Stirling, Jr.	Secretary/ Treasurer	same as above

ATTORNEY REPRESENTING DEVELOPER: Kelso, Spencer, Snyder & Stirling, (attention Burt L. Snyder), 745 Fort Street, Hawaii Building, Suite 1800, Honolulu, Hawaii, 96813, Telephone: 524-5183.

DESCRIPTION: The improvements will consist of one six-story apartment building with parking in the basement and on a portion of the first floor. The building has been constructed of reinforced concrete, concrete blocks, steel, aluminium and allied building materials. The apartment building will contain a total of 99 condominium apartment units. The description and location of each apartment in the building is as follows:

- (a) The basement will contain 28 parking stall apartments, 20 of which will have a floor area of approximately 152 sq. ft. and will be delineated by a white line on the concrete flooring and will consist of the space contained within the interior surfaces of the ceiling and floor and surrounded by imaginary walls which are perpendicular to the floor at the location of the painted white lines. The remaining 8 parking stall Apartments will be of the "subcompact car" type and will contain a floor area of approximately 128 sq. ft. They will be delineated the same as the regular parking stall apartments. Each parking stall apartment is clearly numbered from 1-28 and is located as shown on the Condominium Map. Each parking stall apartment has access to Kalakaua Avenue by way of a combination entrance/exit ramp.
- (b) The first floor of the building consists of two commercial apartments with commercial apartment "A" located as shown on said Condominium Map, being an apartment consisting of two rooms divided by an 8" thick concrete block wall which runs the full length of the apartment, with doorways and containing a floor area of approximately 2,000 sq.ft., with no lanai. Commercial unit "B" consists of two rooms separated by an 8" concrete block wall running the full length of the apartment with doorways, two bathrooms and has a floor area of approximately 2,000 sq.ft., with no lanai.
- (c) Also included on the first floor of the building will be 8 commercial parking stall apartments located at the rear of the building, delineated on the Condominium File Map and described as follows:

<u>Commercial Parking Stall Apartment</u>	<u>Approximate Floor Area</u>
1A	224 sq. ft.
1B	216 " "
2A	248 " "
2B	216 " "
3A	208 " "
3B	208 " "
4A	192 " "
4B	176 " "

Each of the commercial parking stall apartments have access to Dudoit Lane which runs directly behind the apartment building, are partially covered, and are described as the space contained within the surface covering of the floor and ceiling or prolongation of the ceiling and surrounded by the imaginary walls which are perpendicular to the floor at the location of the painted white lines.

- (d) Residential apartment 101 is located on the first floor and is a one room studio unit with a combination living/sleeping area, a kitchenette, one bathroom, no lanai and contains a floor area of approximately 296 sq.ft.
- (e) Residential apartments 201, 301, 401, 501 and 601 are one room studio units with a combination living/sleeping area, one bathroom, a kitchenette, and lanai. They each contain a floor area of approximately 325 sq.ft. with a lanai of approximately 48 sq. ft.
- (f) The remaining residential apartments are one bedroom units containing two rooms including a combination living/dining area, one bathroom, kitchenette, one bedroom, and containing a floor area of the approximate amount as shown in the schedule below with or without a lanai, of approximate floor area as indicated in the schedule.

<u>Residential Apartment</u>	<u>Approx. Floor Area</u>	<u>Approx. Lanai Floor Area</u>
207	424 sq.ft.	56 sq. ft.
307, 407, 507, 607	424 sq. ft.	No Lanai
208, 209, 210	424 sq. ft.	144 sq. ft.
(All remaining apts.)	424 sq. ft.	62 sq. ft.
202, 302, 402, 502, 602		
203, 303, 403, 503, 603		
204, 304, 404, 504, 604		
205, 305, 405, 505, 605		
206, 306, 406, 506, 606		
308, 408, 508, 608		
309, 409, 509, 609		
310, 410, 510, 610		
211, 311, 411, 511, 611		
212, 312, 412, 512, 612		

Each of the apartment units in the project, other than the commercial and parking units will be identified by a three digit number with the first digit indicating the floor, and the remaining two digits indicating the number of the apartment. Each apartment unit has immediate access to an open corridor which is a common element. The full layout and location of each apartment within the building is shown on Condominium Map.

3. Apartments. Each residential and commercial apartment shall include as its boundary lines interior unfinished surfaces, exclusive of paint, paper, wax, tile, enamel or other finishings of its perimeter walls, bearing walls, floors and ceiling, exclusive of any common element. All doors and door frames and windows and window frames, (excepting external finished surfaces facing a common element) and non load bearing walls within an apartment, are part of the apartment.

COMMON ELEMENTS: Common elements shall include:

- (a) the land described in Exhibit "A" attached to the Declaration;
- (b) all foundations, floorslabs, columns, girders, beams, supports, bearing walls, roofs, chases, chutes, corridors, stairs, walkways, entrances and exits of said project;
- (c) all yards, storage, and refuse areas;
- (d) all other parking areas, not designated as apartment units, and driveways and ramps;
- (e) all ducts, electrical equipment, wiring and other central and appurtenant installations for service of more than one apartment including power, light, cold and hot water, refuse and telephone;
- (f) common laundry areas;
- (g) an automatic electric passenger elevator, elevator housing and appurtenant equipment;
- (h) the area on the first floor which is designated as a lobby;
- (i) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS : Certain parts of the common elements, called and designated as "limited common elements" may be set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto an exclusive easement for the use of such limited common elements. No limited common elements are now set aside or reserved.

INTEREST TO BE CONVEYED: 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>
Studios	1.47541
One-bedroom	1.47541
Parking Stall	0.19444
Commercial Parking Stall	0.19444
Commercial apartment	1.50007

The above percentages are approximate so that the aggregate of such percentages multiplied by the number of apartments of each type shall at all times equal 100%.

PURPOSE OF THE BUILDING AND RESTRICTIONS AS TO USE: Condominium apartments described shall at all times be used as residential, commercial or parking as applies to the various type of units, or other purposes as approved by the Board of Directors of the Association of Apartment Owners.

OWNERSHIP TO TITLE: The Preliminary Report which was issued February 12, 1975 by Security Title Corporation reflects that the fee title to the land, consisting of approximately 11,055 sq. ft. is vested in the Trustees of the Bishop Museum, as trustee in the estate of Ray Jerome Baker, pursuant to that certain order approving accounts, terminating trusts, and distributing the estate, dated July 24, 1974.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report prepared by Security Title Corporation also reports the title to the land as of February 12, 1975 is subject to:

1. For Real property taxes for the fiscal year 1974-1975, reference is made to the office of the Tax Assessor, First Division.

2. Terms and conditions of that certain Lease dated January 30, 1960, recorded in the Bureau of Conveyances in Liber 3815, page 289 and also recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 255384, made by Ray Jerome Baker, as Lessor, and McGregor Enterprises, Inc., a Hawaii corporation, which lease was amended by instrument dated July 1, 1965, and filed in the Office of the Assistant Registrar aforesaid as Document No. 364992 and also in the Bureau aforesaid in Liber 5081, page 347. Said Lease is now held by Frances Isami Tsuzuki, husband of Joyce Etsuko Tsuzuki, and Calvin Camp McGregor, husband of Madeleine Favvre McGregor, as Joint tenants, as Lessees, by Assignment of Lease dated October 7, 1965, filed in the Office of the Assistant Registrar aforesaid as Document No. 373440, and also in the Bureau aforesaid in Liber 5174, page 112.

3. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

4. Mortgage dated January 6, 1956, filed in the Office of the Assistant Registrar aforesaid as Document No. 380394 and also recorded in the Bureau aforesaid in Liber 5238, page 150, made by Frances Isami Tsuzuki and Calvin Camp McGregor in favor of Mortgage Finance and Leasing Corporation, which mortgage was assigned by instrument dated December 9, 1966 and filed in Office

of the Assistant Registrar as Document No. 406463 and also recorded in the Bureau aforesaid in Liber 5519, page 464. By instrument dated January 6, 1956, filed in the Office of the Assistant Registrar aforesaid as Document No. 380395 and also recorded in the Bureau aforesaid in Liber 5238, page 155, Ray Jerome Baker, assigned all of his right, title and interest as Lessor in and to the land to Mortgage, Financing & Leasing Corp., as additional security for the above described mortgage.

5. Terms and conditions of the lease dated August 26, 1966, filed as Document No. 402852 by Ray Jerome Baker as Lessor and Hawaiian Electric Company, Inc. as Lessee as a lease of easement to build, etc., lines, etc., the transmission and distribution of electricity, etc., including the right of entry upon the premises (as to parcel first only).

6. Mortgage dated September 26, 1970 recorded in Liber 7211 on page 189 and filed as Document No. 514813 by Frances Isami Tsuzuki and Calvin Camp McGregor in favor of Amfac Financial Corporation, said mortgage being assigned by instrument dated February 29, 1972 recorded in Liber 8176 on page 407 and filed as Document No. 573289 in favor of Finance Factors, Ltd.

7. Agreement of Sale dated December 31, 1971 recorded in Liber 8037 on page 333 and filed as Document No. 564717 by Frances Isami Tsuzuki and Calvin Camp McGregor as Sellers and Larry Lynel Bortles, general partner of Kalakauan Partners, a Hawaii registered limited partnership, as purchaser.

8. An unrecorded and unfiled sub-lease dated August 31, 1967, between Kalakauan Apt.-Hotel, a limited partnership, as Lessor, and Johannes S. Tio, as lessee, for a term of 12 years commencing October 10, 1967 and for the third and fourth shop areas adjacent to Waikiki of the Alii Lounge & Restaurant and being approximately 2,000 square feet and being part of the ground floor shop area situate at 1911 Kalakaua Avenue, Honolulu, Hawaii.

9. An unrecorded and unfiled sub-lease dated October 21, 1971 between Frances Isami Tsuzuki and Calvin Camp McGregor, as Lessor and Caesar's Inc., a Hawaii corporation, as Lessee, for a term of 10 years commencing October 21, 1971, for a portion of and adjoining the office-lobby of the Kalakauan Apt.-Hotel of an approximate 2,000 square feet of floor area.

10. Proceedings in the matter entitled "Caesars's, Inc. Plaintiff, vs. Larry C. Bortles, Bortles and Associates, Inc., Kalakauan Partners, Ltd., Frances Tsuzuki and Calvin Camp McGregor, Defendant," now pending in the Circuit Court of the First Circuit State of Hawaii under Civil No. 43100.

Developer has informed the Commission that the encumbrances on the title in the form of mortgages will be totally satisfied or partial releases issued at the time the apartment units are transferred to buyers; the Commission has also been informed that the civil suit under Civil No. 43100 has been

settled and documents to that effect are now being filed with the First Circuit Court of the State of Hawaii; Commission has further been advised that numerous leases on the apartment units now exist and present tenants of the apartments will be notified in writing that their tenancy is terminated prior to or at the time of the issuance of the Final Report by the Real Estate Commission; the Commission is further advised that unexecuted unrecorded Declaration of Horizontal Property Regime and By-Laws attached thereto will be recorded and filed and as such will present further encumbrance on the fee title of the property involved.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement, dated March 10, 1975, identifies First Escrow Corporation, a Hawaii corporation, as "Escrow". On examination, the specimen Deposit, Receipt and Contract of the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes and particularly Section 514-35 through 514-40.

Among other provisions, the Escrow Agreement provides that no disbursement will be made of any funds deposited by a purchaser until after (a) Seller certifies in writing to escrow that the Purchaser's sales contract "has become effective", (b) Final Public Report has been issued by the Real Estate Commission concerning this project and (c) total payments received by escrow under sales contracts exceed \$1,800,000.00.

The specimen Sales Contract provides in part:

1. That the Developer may cancel at its option the sales agreement and refund to purchaser all monies paid as provided in the escrow agreement and be relieved and released of all liability thereunder if on June 1, 1975, less than fifty (50) residential apartments have been sold; and
2. That at any time during the sales contract, purchaser's credit shall be found unsatisfactory to Developer, or financing becomes unavailable to purchaser or Developer, Developer may, at its option, cancel the Sales Contract, refund to purchaser all monies paid without interest, less any charges for a credit report and escrow, and be relieved and released of all further liability thereunder.

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

BY-LAWS: The proposed By-Laws provides in part that no livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project without the prior written consent of the Board of Directors, except that fish and other similar pets may be kept in reasonable number. The Developer has advised the Commission that the exception of "fish and other similar pets" does not include dogs, cats or other like animals.

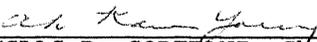
MANAGEMENT OF THE PROJECT: The proposed Declaration reflects that the operation of the project shall be conducted for the Association of Apartment Owners by a managing agent who shall be appointed in accordance with the By-Laws. The proposed By-Laws provide that the Board of Directors shall employ a responsible Hawaii corporation as managing agent to manage and control the project subject at all times to direction by the Board, with all administrative functions set forth in said By-Laws and such other powers and duties as the Board may establish. The initial managing agent is identified in the Notice of Intention as Hawaiiana Management Company, whose principal place of business is Suite 1410, 1860 Ala Moana Boulevard, Honolulu, Hawaii, 96815.

STATUS OF PROJECT: Construction of the building was completed in December 1966 as certified by affidavit of publication dated December 19, 1966. The developer advised the commission that the apartment units are presently being utilized as rental units, both residential and commercial, and will continue to be so occupied until the project is ready for closing.

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 March 14, 1975 and additional information filed as of March 31, 1975.

This Preliminary Horizontal Property Regimes (Condominium) Public Report is made a part of Registration No. 761 filed with the Commission on March 14, 1975.

The report when reproduced, shall be a true copy of the Commission's Public Report. In making facsimiles, the paper stock shall be yellow in color.


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

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Registration No.761
March 31, 1975