

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
Alii Drive
Holualoa, North Kona, Hawaii

REGISTRATION NO. 828

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: September 15, 1976
Expires: October 15, 1977

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:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED DECEMBER 5, 1975 AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED WITH THE COMMISSION AS OF SEPTEMBER 7, 1976. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING ADDITIONAL INFORMATION, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES.

1. Since the issuance of the Commission's Preliminary Public Report on THE BANYAN TREE, Registration No. 828, dated December 23, 1975, the Developer has submitted additional information, as of September 7, 1976.

This Final Public Report is made a part of the registration on THE BANYAN TREE condominium project. The Developer is responsible for placing this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers along with a copy of the Preliminary Public Report (yellow paper stock), and securing a signed receipt from each such person.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.

The Developer reports that the basic documents (Declaration of Horizontal Property Regime, with By-Laws of the Association of Apartment Owners attached, and a copy of the approved Floor Plans) have been recorded in the Bureau of Conveyances of the State of Hawaii.

The Declaration of Horizontal Property Regime, executed August 6, 1976, with By-Laws attached, was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11613, Page 265.

The approved Floor Plans showing the layout, location and numbers of apartments have been designated as Condominium Map No. 466.

3. Advertising and promotional matter has not been submitted to the Commission pursuant to its rules and regulations.
4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514 of the Hawaii Revised Statutes and the Condominium rules and regulations which relate to Horizontal Property Regimes.
5. This Final Public Report automatically expires thirteen (13) months after date of issuance, on September 15, 1976, unless a supplementary public report is issued, or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information in the topical headings of the Preliminary Public Report of December 23, 1975, has not changed except for DEVELOPER, DESCRIPTION, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, and STATUS OF PROJECT, and the addition of PROGRAM OF FINANCING.

NAME OF PROJECT: THE BANYAN TREE

DEVELOPER: The Banyan Tree Partnership, a registered Hawaii general partnership, P.O. Box 837, Kihei, Maui, Hawaii, Telephone: 879-1874 (General Partners: Naoki Tokuhisa, Edgar D. Kerr, Mary L. Bishop - same address).

ATTORNEYS REPRESENTING DEVELOPER: LANGA & ARCHER (Attention: GUY P.D. ARCHER), Wailuku Townhouse Building, Wailuku, Maui, Hawaii. Telephone: 244-9168.

DESCRIPTION: The Declaration of Horizontal Property Regime states that the project is to consist of twenty apartments in one building as follows:

- A. APARTMENTS: Twenty apartment units are designated, comprised of the spaces within the center planes of the perimeter walls, floors and ceilings of each of twenty apartment units of the Project, all of which are contained in one concrete and wood frame building. The numbered units are as follows:

COMMON ELEMENTS: One freehold estate is designated of all remaining portions of the project, called "common elements", including specifically, but not limited to:

- (1) Said land in fee simple;
- (2) All foundations, basement areas, columns, girders, beams, supports, bearing walls, roofs, chases, entries and walkways of said buildings;
- (3) All yards, grounds and landscaping;
- (4) Driveways and parking stalls numbered 18, 19, 23, 24 and 25 as shown on said condominium map;
- (5) All ducts, electrical equipment, wiring and other central and appurtenant installations including power, light, water, sewage treatment system, water sprinkling system and telephone;
- (6) Recreation area, swimming pool, office, mailboxes, refuse facilities and well sites.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called and designated "limited common elements", are set aside and reserved for the exclusive use of certain apartments, and said apartments shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and reserved are:

The parking stalls as shown on said condominium map and any amendments thereto shall be appurtenant to their respective apartments as follows:

<u>Apartment Number</u>	<u>Parking Stall</u>
200-A	1
201-B	20
202-C	2
203-C	3
204-D	4
205-E	5
300-A	6
301-B	7
302-C	8
303-C	21
304-D	22
305-E	9
306-F	10
400-A	11
401-B	12
402-C	13
403-C	14
404-D	15
405-E	16
406-F	17

OWNERSHIP OF TITLE: A Policy of Title Insurance, dated July 30, 1976, prepared by Title Insurance and Trust Company certifies that title is vested in the Banyan Tree Partnership, a registered Hawaii general partnership.

ENCUMBRANCES AGAINST TITLE: Said Policy of Title Insurance, dated July 30, 1976, prepared by Title Insurance and Trust Company certifies that there are no liens or encumbrances of whatever kind or nature of record against the title, save and except the following:

- (1) Mortgage dated July 30, 1976, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11565, Page 411, made by Banyan Tree Partnership, a registered Hawaii general partnership consisting of Naoki Tokuhisa, Edgar D. Kerr and Mary L. Bishop, to State Savings and Loan Association, a Utah corporation, to secure the repayment of the sum of \$1,200,000 together with interest thereon, all according to the terms of that certain promissory note of the Mortgagor of even date.
- (2) Reservation in favor of the State of Hawaii of all mineral and metallic mines.
- (3) Location of the seaward boundary in accordance with the law of the State of Hawaii.
- (4) A pedestrian easement ten feet wide described as per survey of Jerry S. Nakagawa, registered professional land surveyor, dated September, 1975.
- (5) By Assignment of Sales Agreements and Escrow Deposits dated as of July 30, 1976, recorded in Liber 11565, Page 452, Banyan Tree Partnership, a Hawaii partnership, assigns to State Savings and Loan Association, all of its right, title and interest in and to any and all deposit receipt and contract(s) and other agreements of every kind, whether now or hereafter executed, relating to the sale or other disposition of condominium apartments, together with all proceeds thereof, as additional security to that certain mortgage referred to in paragraph (1) above.
- (6) Taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor, Third Division.

PROGRAM OF FINANCING: The Developer has complied with the provisions of Section 514-15 of the Hawaii Revised Statutes by filing with the Commission the following:

- (1) Developer's verified statement of total development cost and estimated time of completion of project construction;
- (2) Standard Form of Agreement Between Owner and Contractor, dated July 10, 1976, by and among, C. M. Poulton, License No. B-5433, as Contractor, and Edgar D. Kerr, Mary L. Bishop and Naoki Tokuhisa, as Owner, for construction of the twenty unit condominium.
- (3) Performance Bond and Rider, dated July 26, 1976, in an amount not less than 100% of the construction contract price, issued by Hawaiian Insurance & Guaranty Company, Limited, as Surety, and C. M. Poulton, as Principal.
- (4) Labor and Material Payment Bond and Rider, dated July 26, 1976, in an amount not less than 100% of the construction

contract price, issued by Hawaiian Insurance & Guaranty Company, Limited, as Surety, and C. M. Poulton, as Principal.

- (5) Commitment Letter, dated May 19, 1976, from State Savings and Loan Association, as Lender, to the Banyan Tree Partnership, as Borrower, approving the construction mortgage loan.
- (6) Commitment Letter, dated July 15, 1976, from Pioneer Federal Savings and Loan Association and Pioneer Mortgage Corp., as Lender, to the Developer, as Borrower, approving the permanent mortgage loan.

STATUS OF PROJECT: The Developer advises that construction of the project has commenced on July 1, 1976 and the estimated completion date is April 30, 1977.

The purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted December 5, 1975, and information subsequently filed as of September 7, 1976.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 828 filed with the Commission on December 5, 1975.

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



AH KAU YOUNG, CHAIRMAN,
REAL ESTATE COMMISSION
STATE OF HAWAII

DISTRIBUTION:

DEPARTMENT OF TAXATION
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT,
COUNTY OF HAWAII
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 828
September 15, 1976