

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

VILLA PACIFICA
3277 B & D and 3281 A & B
Pacific Heights Road
Honolulu, Hawaii

REGISTRATION NO. 861

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 18, 1976
Expires: July 18, 1977

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 FILED MAY 26, 1976. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. VILLA PACIFICA is a fee simple condominium project consisting of four (4) buildings, without basements. There are a total of four (4) apartments and eight (8) parking spaces.

2. The Developer has filed all documents and materials deemed necessary by the Commission for the registration of

this proposed condominium project and the issuance of this Final Public Report.

3. 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.

The Declaration of Horizontal Property Regime executed May 18, 1976, with By-Laws attached was recorded as aforesaid in Liber 11426, Page 478.

The approved Floor Plans showing the layout, location, apartment numbers, etc., have been designated Condominium File Plan No. 460.

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

5. 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.

6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, June 18, 1976, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. This Final Public Report is made a part of registration on VILLA PACIFICA condominium project. The Developer has the responsibility of placing a true copy of the Final Public Report (white paper stock) in the hands of all purchasers. Securing a signed copy of the Receipt for the Final Horizontal Property Regime Public Report from each purchaser is also the responsibility of the Developer.

NAME OF PROJECT: VILLA PACIFICA.

LOCATION: The approximate 45,227 square feet of land committed to the regime is situated at 3277 B & D and 3281 A & B Pacific Heights Road, Honolulu, Oahu, Hawaii.

TAX MAP KEY: FIRST DIVISION: 2-2-29-15, 39 & 42.

ZONING: Lots 3 & 5: R-3; Lot 9: P-1.

DEVELOPER: Evangeline Gerwig Deacon, wife of B. W. Deacon, 3275 Pacific Heights Road, Honolulu, Hawaii; Telephone: 536-1185.

ATTORNEY REPRESENTING DEVELOPER: Hamilton, Gibson, Nickelsen, Rush & Moore (Attention: Dwight M. Rush and Walter Beh, II), 20th Floor Hawaii Building, 745 Fort Street, Honolulu, Hawaii 96813, Phone 521-2611.

DESCRIPTION: The Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a fee simple condominium project consisting of four (4) buildings, without basements, consisting of a total of four (4) apartments:

Apartment Nos. 1 and 2 are located on Lot 3 as shown on said condominium file plan.

Apartment Nos. 3 and 4 are located on Lot 5 as shown on said condominium file plan.

The apartments are constructed according to one type of floor plan. The principal material used in the construction of the buildings is wood. A description of said floor plan, designating the layout, number of rooms and approximate area thereof is as follows:

All apartments are built according to one floor plan, consisting of six (6) rooms all located on one floor, including two (2) bedrooms, two (2) bathrooms, a living room, a kitchen and a deck. Each apartment contains a total floor area of approximately 1,000 square feet, not including the floor area of the deck.

The apartments have immediate access to the grounds of the project.

The respective apartments shall not be deemed to include any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions within its perimeter walls, all walls, floors, ceilings and roofs, doors and door frames, windows and window frames, the appurtenant decks, the deck air space, and all fixtures originally installed therein.

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

1. The land in fee simple;
2. All yards, grounds and landscaping;
3. All roads, driveways and parking areas;
4. All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across

the project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any;

5. Any and all other apparatus and installations of common use and 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, herein called the "limited common elements", are designated and set aside for the exclusive use of certain apartments, and such apartments having appurtenant thereto easements for the use of such limited common elements as follows:

1. Two (2) parking spaces, as designated on said condominium file plan by the same number as the respective apartments shall be appurtenant to and for the exclusive use of such apartment;

2. Lot 3 as shown on said condominium file plan and the water lines and water meter located thereon shall be appurtenant to and for the exclusive use of Apartment Nos. 1 and 2;

The owners of Apartment Nos. 1 and 2 shall be jointly responsible, in equal shares, for the cost of water service to their apartments and for the proper repair and maintenance of such limited common elements appurtenant to their respective apartments located on said Lot 3.

3. Lot 5 and the undivided interest in Lot 9 as shown on said condominium file plan and the water lines and water meter located thereon shall be appurtenant to and for the exclusive use of Apartment Nos. 3 and 4.

The owners of Apartment Nos. 3 and 4 shall be jointly responsible, in equal shares, for the cost of water service to their apartments and for the proper repair and maintenance of such limited common elements appurtenant to their respective apartments located on said Lots 5 and 9.

INTEREST TO BE CONVEYED TO PURCHASERS: Documents filed with the Real Estate Commission indicate that the purchaser will secure an Apartment Deed, conveying an apartment and an undivided twenty-five percent (25%) interest in the common elements of the project. This same percentage interest for each apartment shall be used in determining each purchaser's proportionate share of all common profits and expenses of the project and shall be used for all other purposes including determining the proportionate representation for voting purposes in the Association of Apartment Owners of the project.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration provides that, except when a mortgagee has entered into possession of an apartment following (i) a default under a first mortgage, (ii) a foreclosure proceeding, or

(iii) a conveyance in lieu of foreclosure, the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests and for no other purpose. The apartments shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than 30 days, or (b) any rental in which the occupants of the apartments are provided customary hotel services such as room service for food and beverage, maid service, laundry and linen or bellboy service. Except for such transient or hotel purposes the owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration and the By-Laws attached thereto; provided, however, that no apartment owner may lease less than the entire apartment.

OWNERSHIP OF TITLE: The Developer represents that it is the Owner of the fee simple title to the property committed to the project. The Developer will issue individual apartment deeds directly to the purchasers.

ENCUMBRANCES AGAINST TITLE: A Preliminary Public Report dated March 23, 1976, issued by Title Guaranty of Hawaii Incorporated, and the Declaration as submitted to the Commission, provide that the following are encumbrances against title to the property:

1. For any taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the First Division, Island of Oahu, Hawaii.

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

3. All rights-of-way and/or easements over, across or under the above described premises where water mains are now laid or now used by or in connection with the water system of Pacific Heights.

4. As to Lot 3 only:

(a) Easement "A" for utility purposes in favor of Lots 4 and 5 of said Maukalani Subdivision, as mentioned in Deed dated July 3, 1973, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9398 at Page 180.

(b) A Grant in favor of the City and County of Honolulu, dated August 27, 1969, recorded as aforesaid in Liber 7399 at Page 296; granting an easement for an underground sewer pipe line or pipe lines through, under and across a portion of said Easement "A".

(c) That portion of Easement "A" for sanitary sewer purpose in favor of Lots 1 and 2 of the said Maukalani Subdivision, as mentioned in Deed dated July 3, 1973, recorded as aforesaid in Liber 9398 at Page 180.

5. As to Lot 9 only:

(a) A grant in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, dated June 13, 1969, recorded as aforesaid in Liber 6589 at Page 417; granting a perpetual easement for power and communication purposes over and across a portion of said parcel.

(b) A grant in favor of the City and County of Honolulu, dated August 27, 1969, recorded as aforesaid in Liber 7399 at Page 296; granting an easement for an underground sewer pipe line or pipe lines through, under and across a portion of said Easement "A".

(c) That portion of Easement "A" for sanitary sewer purpose as shown on the map of Maukalani Subdivision, as mentioned in Deed dated July 3, 1973, recorded as aforesaid in Liber 9398 at Page 180.

NOTE: The specimen Apartment Deed specifies the assumption and payment by all entitled thereto of one-fourth (1/4) of the cost of the maintenance of said Lot 9, including the roadway thereon; reserving, however, unto Evangeline Gerwig Deacon, wife of B. W. Deacon, and her heirs, executors, administrators, successors and assigns, all easements and rights-of-way now or hereafter required to serve any lot adjoining said Lot 9 to construct, install, operate, maintain, repair and replace lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities, over, across and under said Lot 9, the right to enter for such purposes, and to trim any trees in the way of such lines, and the right to grant to any public utility, governmental authority or other entity such easements, rights and rights-of-way.

6. As to Lot 5 only:

Pending in the Circuit Court of the First Circuit, State of Hawaii, is Civil No. 38611, filed on February 7, 1973; Mars Constructors, Inc., vs. B. W. Deacon and Evangeline G. Deacon; re: to enforce Mechanic's and Materialman's Lien No. 2521, dated February 7, 1973.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated March 19, 1976, between Title Guaranty Escrow Services, Inc., as Escrow, and Developer has been filed with the Commission. On examination, the executed Escrow Agreement filed with the Commission is found to be in compliance with Chapter 514, Hawaii Revised Statutes.

The specimen Sales Contract filed with the Commission contains, among others, the following provisions:

1. "It is expressly understood and agreed by and between Seller and Buyer that Buyer's apartment described in

Paragraph "A" hereof will be conveyed to Buyer as is and that THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF THE APARTMENT FOR A PARTICULAR PURPOSE, involved in this sale."

2. "Buyer hereby agrees that until Seller has closed out the sale of all the apartments in the condominium project or until December 31, 1978, whichever shall first occur, that 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."

It is incumbent upon the purchaser and the prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of residential apartments are placed in trust, as well as the retention and disbursement of said trust funds. The specimen Sales Agreement specifically provides that the purchaser approves said Escrow Agreement and assumes the benefits and obligations therein provided.

MANAGEMENT OF THE PROJECT: The By-Laws which are incorporated in the Declaration provide that the operation of the project may be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible managing agent, but there is no requirement that a managing agent be appointed. At this time, the Developer does not propose to so appoint a managing agent.

NOTE: Developer advises that no representation or references will be made to either purchasers or prospective purchasers concerning rental of the apartment, income from the apartment or any other economic benefit to be derived from the rental of the apartment, including but not limited to, any reference or representation to the effect that Developer or the Managing Agent of the project will provide, directly or indirectly, any services relating to the rental or sale of the apartment. Rental of the apartments and the provisions of management services in connection therewith is and shall be the sole responsibility of the purchaser.

STATUS OF THE PROJECT: As per the Notice of Intention filed with the Commission on May 26, 1976, construction of the project was completed in October, 1973.

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 May 26, 1976.

This is a FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 861

filed with the Commission May 26, 1976. This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



AH AU YOUNG, 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. 861

JUNE 18, 1976