

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
KAHALA VIEW ESTATE
Hiikala Place
Waialae Nui Valley
Honolulu, Hawaii

REGISTRATION NO. 910

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: May 19, 1977

Expires: June 19, 1978

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 MAY 3, 1977 AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 12, 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.

1. KAHALA VIEW ESTATE is a proposed leasehold cluster condominium project consisting of forty-four (44) residential dwelling units in twenty-two (22) two-story duplex (dual-family) residential buildings without basements, and recreational areas including a tennis court and a swimming pool. Each unit shall have one covered carport and one open carport at the front entry of the apartment.

2. The Developer has submitted to the Commission for examination all documents necessary for the issuance of this Preliminary Public Report.
3. No advertising or promotional matter has been submitted pursuant to Chapter 514 of the Hawaii Revised Statutes and the rules and regulations promulgated by the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a copy of the proposed Condominium Map) have not been recorded as of this date 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, the Horizontal Property Act and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, May 19, 1977, unless a Final or Supplementary Public Report issues, or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Preliminary Public Report is made a part of the registration on "KAHALA VIEW ESTATE" condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and for securing a signed copy of the Receipt for Horizontal Property Regime Preliminary Public Report from such persons.

NAME OF PROJECT: KAHALA VIEW ESTATE.

LOCATION: The land submitted to the Regime, approximately 7.6 acres, is located on the eastern slopes of Waialae Nui Valley, Honolulu, Hawaii.

TAX MAP KEY: FIRST DIVISION 3-5-24:7.

ZONING: R-4.

DEVELOPER: THE ADS PARTNERS, a Hawaii registered limited partnership, the general partners of which are: Project Developments, Inc., a Hawaii corporation, J. Darling International, PTY. LTD. and Orcor International PTY. LTD., both

Australian corporations authorized to do business in the State of Hawaii. The address of the limited partnership is Suite 615, 700 Bishop Street, Honolulu, Hawaii 96813, Telephone: 524-0276.

ATTORNEY FOR DEVELOPER: Carlsmith, Carlsmith, Wichman and Case, 190 South King Street, Honolulu, Hawaii 96813 (Attention: James H. Case or Ray Iwamoto), Telephone 524-5112.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the land will be improved, according to the Developer's plans and intention to sell, with the construction of twenty-two (22) two-story duplex (dual-family) residential buildings containing forty-four (44) residential units plus roadway and recreational areas (including a tennis court and a swimming pool). The specimen Sales Contract states that the Developer intends to sell the apartments therein to third persons, either causing the Fee Owner (The Trustees of the Bishop Estate) to issue to each purchaser of a condominium unit a lease of such condominium unit and an undivided interest in the common elements of the Project or to assign such lease to said purchaser.

1. Description of the Buildings.

(a) General Description. The Project shall consist of twenty-two (22) pole house type duplex buildings and various open space and recreational areas which are designated and described as common elements, including a swimming pool, a tennis court, and outdoor barbeque areas. In addition to the written description of the Project in the Declaration, the Project will also be depicted on the Condominium Map for the Project to be recorded in the Bureau of Conveyances.

(b) Access. Each condominium unit has immediate access to driveways and walkways connecting the buildings to the streets and parking areas of the Project.

(c) Number of Apartments. There will be forty-four (44) condominium units, two (2) units in each building. Each condominium unit constitutes an "apartment", as defined and used in Chapter 514 of the Hawaii Revised Statutes, and constitutes a separate estate. The original plan is to have twenty-two (22) two-bedroom, two and one-half bath apartments and twenty-two (22) three-bedroom, two and one-half bath apartments.

(d) Construction Materials. The apartment buildings shall be constructed principally of wood (post and board) and allied building materials.

2. Description of Apartments.

(a) Numerical Designation and Location of Apartments. There will be a total of four (4) basic types of apartments, the detailed plans for which are shown on the proposed Condominium Map filed with the Commission. Each apartment within each of the foregoing types is substantially the same as all others within its type, except that the floor plans may be mirror images of other floor plans. The Declaration (with the "R" designating a mirror image describes eight apartment types: Type A, AR, B, BR, A3, AR3, A4, and AR4. The original plan is to form the Project with only Types A, AR, B, and BR apartments. At the Purchaser's option the Type A and AR apartments can be expanded to Type A3, AR3, A4, or AR4 apartment by the addition of a third bedroom in the case of the Type A3 or AR3 apartment or third and fourth bedroom in the case of the Type A4 or AR4 apartment, in the manner shown in the Condominium Map.

The Declaration describes the location and numbering of the apartments, by original plan types, as follows:

<u>Apartment No.</u>	<u>Building No.</u>	<u>Apartment Type</u>
1	22	B
2		A
3	21	B
4		A
5	20	B
6		A
7	19	B
8		A
9	18	B
10		A
11	17	B
12		A
13	16	B
14		A
15	15	B
16		A
17	14	B
18		A

<u>Apartment No.</u>	<u>Building No.</u>	<u>Apartment Type</u>
19	13	B
20		A
21	12	B
22		A
23	11	BR
24		AR
25	10	BR
26		AR
27	9	BR
28		AR
29	8	BR
30		AR
31	7	BR
32		AR
33	6	BR
34		AR
35	5	BR
36		AR
37	4	BR
38		AR
39	3	A
40		B
41	2	A
42		B
43	1	A
44		B

(b) Description of Apartments. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits, or other utility 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 include all the walls and partitions which are not

load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and the fixtures originally installed therein, including range and oven, freezer/refrigerator, dishwasher, disposal, carpets, washer and dryer. An apartment shall also be deemed to include its covered carport and its open carport.

The apartments designated as Types A, AR, B and BR are described as follows:

(a) Types A and AR. The Type AR apartment is a mirror-image of the Type A apartment, which is a two-story apartment containing an entry hall, kitchen with laundry area, one-half bathroom, a living room-dining area, and a lanai on the upper level and two bedrooms, two full bathrooms, a lanai and a storage closet in the lower level, with an interior stairway connecting both floors, for a gross floor area of approximately 1,805 square feet. In addition, the apartment includes one covered carport and one open carport at the front entry of the apartment.

(b) Types B and BR. The Type BR apartment is a mirror-image of the Type B apartment, which is a two-story apartment containing an entry hall, one-half bathroom, kitchen with a laundry area, dining area with a covered lanai, and a split-level living room with a lanai on the upper level, and three bedrooms, two lanais, two full bathrooms, and a storage closet on the lower level, with an interior stairway connecting both floors, for a gross floor area of approximately 2,009 square feet. In addition, the apartment includes one covered carport and one open carport at the front entry of the apartment.

At the option of the purchaser of a Type A or AR apartment, such apartment may be expanded by the addition of either one or two bedrooms in the manner shown in the Condominium Map. The following designations will be given to such expanded apartments:

(a) Type A3. A three-bedroom Type A apartment, with the third bedroom added off the bottom landing of the interior stairway, for a gross floor area of approximately 1,979 square feet.

(b) Type AR3. The mirror-image of the Type A3 apartment.

(c) Type A4. A four-bedroom Type A apartment, with the third and fourth bedrooms added off the bottom and midway landings of the interior stairway, for a gross floor area of approximately 2,134 square feet.

(d) Type AR4. The mirror-image of the Type A4 apartment.

The gross square footage areas for the respective unit types are computed from and to the center lines of the apartment perimeter party walls and the exterior surface of all other apartment perimeter walls, including the area to the edge of the outdoor lanais (excluding the respective carports).

COMMON ELEMENTS. The proposed Declaration of Horizontal Property Regime reflects that the common elements shall include the common elements described above in paragraph 2(b) under the topical heading "DESCRIPTION", the limited common elements set forth below, and all other portions of the Project other than the apartments, including specifically, but not limited to:

(a) Said land in fee simple.

(b) The easements described in Exhibit A attached to the Declaration.

(c) All foundations, floor slabs, columns, girders, beams, supports, other structural members, unfinished perimeter and load-bearing walls.

(d) All yards, grounds, landscaping, planters, fences, mail boxes, refuse facilities, swimming pool, tennis court, and the other open areas, recreational facilities and amenities.

(e) All ducts, sewer lines, electrical equipment, gas tanks, pipes, wiring and other central and appurtenant transmission facilities, installations which serve more than one apartment for services such as power, light, water, gas, refuse, telephone and radio and television signal distribution.

(f) All roadways, sidewalks, and driveways, which are rationally of common use.

(g) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance or safety, and normally in common use.

LIMITED COMMON ELEMENTS. Certain parts of the common elements, herein called and designated as "limited common elements", are set aside and reserved for the exclusive use of certain apartments as described below. The costs and expenses of every description pertaining to the limited

common elements, including but not limited to the costs of maintenance, repair, replacement, improvement or additions to the limited common elements shall be charged to all apartment owners in proportion to the common interests appurtenant to their respective apartments.

(a) The walkways connecting the apartments to the roadway of the Project and/or to the carports of such apartments shall be deemed a limited common element appurtenant to and for the exclusive use of the apartment served thereby.

(b) All other common elements of the Project which are rationally related to less than all of said apartments or buildings shall be limited to the use of such apartments or buildings.

INTEREST TO BE CONVEYED TO PURCHASER: The undivided percentage ownership in the common elements (the "Common Interest") appertaining to each apartment and its owner for all purposes including voting shall be as follows:

Apartment 2	2.261%
All other apartments	2.273%

Each apartment and its appurtenant Common Interest shall be leased to each purchaser by an Apartment Lease.

USE: The proposed Declaration provides that the residential apartments shall be occupied and used only as private dwellings. The owners of apartments have the right to lease or rent their apartments to third parties, subject to all of the provisions of the Declaration and By-Laws which should be reviewed by the Purchaser.

OWNERSHIP TO TITLE: The Preliminary Report issued March 28, 1977, and prepared by Title Guaranty of Hawaii, Inc. states that title to the land is vested in The Trustees of the Bishop Estate (the "Trustees"). Exotics Hawaii, Ltd., a Hawaii corporation, is the holder of Lease No. 14,140 covering the land and recorded in the Bureau of Conveyances of the State of Hawaii, in Liber 4850, at Page 28. Exotics Hawaii, Ltd. has agreed to surrender from Lease No. 14,140 the property to be developed and the Developer and the Trustees have executed an Option Agreement, whereby, upon Developer's execution of the Option, the Trustees will lease the property to the Developer by issuing a Master Lease (the "Lease") to the Developer. The Option Agreement provides that the Option has to be exercised in such time so that the Lease can be issued prior to December 31, 1977.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated March 28, 1977, prepared by Title Guaranty of Hawaii, Inc. describes the following encumbrances:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, First Division.
2. Title to all mineral and metallic mines reserved to the State of Hawaii.
3. Grant dated September 5, 1961, and recorded in Liber 4142, at Page 174, in favor of The Hawaiian Electric Company, Limited (now known as Hawaiian Electric Company, Inc.), granting an easement for underground power lines purposes over and across land under search.
4. Terms, agreements, reservations, covenants, conditions and provisions contained in Lease No. 14,140, as amended.
5. Mortgage in favor of Bank of Hawaii dated September 24, 1964, recorded in said Bureau in Liber 4850, at Page 51.
6. Mortgage in favor of State of Hawaii, acting through the Board of Agriculture dated December 23, 1965, recorded in said Bureau in Liber 5240, at Page 237.

The Developer has informed the Commission that it will place a construction mortgage on its leasehold interest. The respective liens of this mortgage and the mortgages described in items 5 and 6 above will be released and discharged of record as to each condominium apartment prior to its being transferred to a purchaser.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated April 28, 1977, between First Hawaiian Bank (the "Escrow"), as Escrow Agent, and Developer, has been filed with the Commission. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes, as amended.

The executed Escrow Agreement provides in part that if at any time (a) Escrow receives written notice from Developer to return to a purchaser under a Sales Contract the funds of such purchaser then held by Escrow under the Escrow Agreement, or (b) with respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, there shall be any substantive change in the building plans of a type which gives Purchaser a right to cancel his Sales Contract pursuant to Chapter 514 of the Hawaii Revised Statutes (unless purchaser's written approval or acceptance of the specific change is obtained, or ninety (90) days have elapsed since the purchaser has accepted in

writing the apartment or he has first occupied the apartment) or (c) the Final Report differs in a material respect from the Preliminary Report, and the purchaser's written approval of such change has not been obtained and the purchaser shall request the refund, or (d) the Final Report is not issued within one (1) year from the date of issuance of the Preliminary Report unless upon its issuance the Purchaser receipts for the same and the sales contract is nevertheless affirmed by the purchaser, then in any such event Escrow shall return such funds to the purchaser, without interest earned unless otherwise instructed by Developer and furthermore unless Developer shall otherwise instruct Escrow, less: (1) Escrow's cancellation fee of either \$15.00 or \$25.00 per apartment, as set forth in paragraph 13 of the Escrow Agreement, (2) any mortgagee's cancellation fee, and (3) all other costs, if any, which have been incurred in connection with the Escrow mortgage processing, closing or legal documentation. The Escrow Agreement further provides that Escrow shall also return to purchaser his Sales Contract marked "cancelled" and any apartment lease previously delivered to Escrow shall be returned to Developer marked "cancelled" and any mortgage documents which may have been executed shall also be marked "cancelled" and returned to the mortgagee, if any, and Developer and the purchaser shall be deemed no longer bound by the terms of the Sales Contract; provided, however, that no refund shall be made to purchaser at purchaser's request until Escrow has received written approval of such refund from Developer.

NOTE: Prospective purchasers should be aware that:

1. The Mortgage and other liens which will secure the Developer's first mortgage interim construction loan (renewals and extensions) for the construction of the Project shall be and remain at all times a superior lien on the Project, and purchasers intentionally waive and subordinate their interests under the Sales Contract or any reservation agreement in favor of the priority of all such liens.

2. The prospective purchaser is advised that the Developer is selling the units in the Project pursuant to the Developer's rights under its Option Agreement with the Trustees and upon exercise of the option granted therein, its rights under the Master Lease to be issued by the Trustees. The specimen Sales Contract reserves the right in the Developer, at the Developer's option, to cancel the Sales Contract and all of the purchaser's rights thereunder, or to the land and improvements, (1) if less than 22 apartments are sold to qualified purchasers by December 31, 1978, or (2) if the seller fails to enter into the Master Lease or if the Master Lease is terminated for any reason, or (3) if the

purchaser or any one of the purchasers should die, then Developer will cause Escrow to refund purchaser's deposit together with interest earned. It further provides that if the Developer fails to exercise its option to enter into the Master Lease or the Master Lease is terminated for any reason, then such termination shall automatically cancel and extinguish the Sales Contract and the Purchaser shall have no interests whatsoever in the land and shall have no right to require Seller or the Lessor of the Master Lease or anyone else to construct the condominium unit contracted for under the Sales Contract.

3. The Sales Contract provides that each purchaser who is not in default of the Sales Contract and performs all of his obligations thereunder will be paid five percent (5%) annual interest compounded at the end of each calendar year on his funds in Escrow from the date when the Escrow Agent deposits such funds in an interest bearing account as provided in the Escrow Agreement until the Closing Date as defined in the Sales Contract or upon Seller's cancellation of the Sales Contract pursuant to those cancellation rights described in paragraph 2 above under the topical heading "NOTE". Seller will pay such interest to the purchaser for the period, and upon pertinent conditions, all as specified in the Sales Contract in addition to the refund of purchaser's deposits in full without any deductions.

4. Purchaser should also note that the Sales Contract places restrictions on the Apartment Owners, precluding them from entering into any rental pool or other rental-sharing arrangements with other such Apartment Owners until after the expiration of fifteen (15) years from the date of recordation of purchaser's Apartment Lease.

5. As provided in Section D.25 of the Sales Contract, the purchaser acknowledges that minor construction activity may continue on the site after purchaser has occupied his apartment, which may result in noise, dust or other annoyances. In addition, as further provided in said Section D.25, the Developer's sales activities, including the use of model units and signs for sales displays and related activities, may continue until the last apartment in the Project is sold.

6. The purchaser's attention is directed to paragraph M of the Declaration and Section D.6 and D.7 of the Sales Contract, all of which reserves to the Developer a right to make certain amendments that may be necessary to comply with the provisions of law, the requirements of certain mortgagees, or to carry out the changes to the Project set forth in said paragraphs.

7. The purchaser should be especially aware that the Declaration provides that the Type A and AR apartments may be expanded by the Developer by the addition of either a third or third and fourth bedroom(s) at the option of the purchaser of such unit. In addition the condominium documents provide that the purchasers of a Type A or AR apartment may at any time, subject only to the prior approval of the Board of Directors of the Association of Apartment Owners, the Trustees and any mortgagee, expand his apartment but only in the manner as described in the Declaration and in the Condominium Map and subsequently to then amend the Declaration to note such expansion. Consequently, the purchaser acknowledges in the Sales Contract that he agrees to accept the foregoing conditions as well as any inconveniences or annoyances which may result and further agrees to remain outside of any areas in which construction work is being performed. In this regard the purchaser is advised to carefully read Section D.25 of the Sales Contract, paragraphs 2, K and M of the Declaration, and paragraph (u) of Section 2 of Article III of the By-Laws.

It is incumbent upon 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 apartments are placed in trust, as well as the retention and disbursement of the proceeds of said trust fund.

DECLARATION OF PERPETUAL MAINTENANCE: In order to be able to develop the Project as planned, the Developer needs and therefore has applied for a Resolution from the City and County of Honolulu, approving the Project for development as a Cluster Development in accordance with Section 21-282 (k)(3)(e) of the Revised Ordinances of Honolulu, 1969, as amended. Pursuant thereto, the proposed Declaration contains a Declaration of Perpetual Maintenance which, together with the Resolution will constitute covenants running with the land and shall be binding on all purchasers of apartments in the Project and shall inure to the benefit of the City & County of Honolulu and its successors. In accordance with the provisions thereof, the open areas, private streets and utilities of the Project shall be preserved and perpetually maintained by the Association. The expenses of said maintenance shall be common expenses subject to lien and in the event of the Association's failure to enforce the covenants therein and the City & County of Honolulu is required to perform any of said maintenance, the cost thereof shall also be a common expense payable by the Apartment Owners.

MANAGEMENT OF THE PROJECT: The By-Laws vest in the Board of Directors (the "Board") the power and duties necessary for the administration of the overall affairs of the Project.

The By-Laws submitted to the Commission permit the Developer to appoint the initial managing agent for the Project. The Developer has not yet entered into a contract with the initial managing agent.

HOUSE RULES: Purchasers and prospective purchasers are advised to read with care the House Rules for the Project which among other things provide that occupants of any apartment containing a pet are required to register their pet with the managing agent. The Board may require permanent removal of any pet if such pet is determined by the Board to be a major nuisance to the Project.

STATUS OF PROJECT: Construction has not yet begun.

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 3, 1977.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 910 filed with the Commission on May 3, 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 in color.

Ah Kau Young

AH KAU 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. 910

May 19, 1977