

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 KAIMUKI JADE
1139 9th Avenue
Honolulu, Hawaii

REGISTRATION NO. 999

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: June 2, 1978
Expires: July 2, 1979

SPECIAL ATTENTION

A comprehensive reading of this report 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 1, 1978 AND INFORMATION SUBSEQUENTLY SUBMITTED AS OF MAY 25, 1978. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES.

1. THE KAIMUKI JADE is a fee simple condominium project consisting of one (1) sixteen-story building, without a basement, and seventy-two (72) apartments and sixty-one (61) parking stalls.

2. The Developer of the project has filed all documents and materials deemed necessary by the Commission for the registration of this proposed condominium project and the issuance of this Preliminary 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 not yet been recorded in the Bureau of Conveyances of the State of Hawaii.

4. No advertising and 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 514A of the Hawaii Revised Statutes and the Condominium Rules and Regulations which relate to Horizontal Property Regime.

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, June 2, 1978, unless a Final or Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the period of this report.

7. This Preliminary Public Report is made a part of registration on THE KAIMUKI JADE condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the Receipt for the Preliminary Horizontal Property Regime Public Report from each such person is also the responsibility of the Developer.

NAME OF PROJECT: THE KAIMUKI JADE

LOCATION: The approximately 30,000 square feet of land to be committed to the regime is situated at 1139 9th Avenue, Honolulu, Hawaii.

TAX MAP KEY: First Division: 3-2-05-23.

ZONING: B-1.

DEVELOPER: 9TH AVENUE INVESTORS, a Hawaii limited partnership, Suite 1414, 745 Fort Street, Honolulu, Hawaii 96813, Phone 524-5490, whose general partners are: (1) Freeman, Penrose & Kajimura, Ltd., a Hawaii corporation, and (2) The Berkeley Corporation, a Hawaii corporation; and whose limited partner is R. Carter Freeman.

ATTORNEY REPRESENTING DEVELOPER: Hamilton, Gibson, Nickelsen,

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

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and plans submitted by the Developer indicate a fee simple condominium project consisting of seventy-two (72) apartments in one (1) sixteen-story building without a basement and constructed principally of concrete.

The location and description of the various apartments of the project are as set forth in the Exhibit attached to this Preliminary Public Report.

The apartments have immediate access to a walkway which leads to the grounds of the project, or to a walkway leading to stairways which lead to the grounds of the project, or leading to elevators which lead to the grounds of the project.

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, the floors and ceilings surrounding each apartment or 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 which are not load-bearing within its perimeter or party walls, doors and door frames, windows and window frames, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

COMMON ELEMENTS: One (1) freehold estate is 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 foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, elevators, stairways, walkways, entrances and exits of said building;
3. All yards, grounds and landscaping;
4. All parking areas, including without limitation all parking stalls depicted on the Condominium File Plan;
5. 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;

6. Men's room and women's room located immediately off the center walkway of the ground floor; and

7. 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.

NOTE: Appurtenant to each of Apartment Nos. C-102, C-103, C-104, C-105 and C-108 shall be a non-exclusive easement for the use of one (1) parking stall on an unassigned basis, and appurtenant to Apartment No. C-109 shall be a non-exclusive easement for the use of two (2) parking stalls on an unassigned basis.

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. The men's room and women's room located immediately off the center walkway of the ground floor of the project, shall be appurtenant to and for the exclusive use of the apartments located on the ground floor.

2. The storage room and laundry facilities located on each floor above the ground floor shall be appurtenant to and for the exclusive use of the apartments located on each such floor.

3. The storage locker designated on said condominium file plan with the same number as the respective apartments shall be appurtenant to and for the exclusive use of such apartment.

4. All adjacent non-load bearing perimeter and party walls of apartments located on the ground floor shall be appurtenant to and for the exclusive use of the apartments utilizing the same.

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 interest, as set forth in said Exhibit, in all common elements of the project and the same proportionate share of all common profits and expenses of the project and shall be used for all other purposes including voting.

NOTE: The proposed Declaration provides that as the gas for said building only serves the apartments located on the floors above the ground floor, the common expenses for charges for gas which is not separately metered shall be borne by the apartments located on the floors above the ground floor in proportion to their respective common interests; provided, however, in the event the apartments located on the ground floor shall utilize the said gas, the common expenses for charges for gas which is not separately metered which supplies both the apartments located on the ground floor and the other apartments of the project, shall be apportioned between (1) the apartments located on the ground floor, and (2) the other apartments of the project by the Board of Directors of the Association in a fair and equitable manner.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the apartments may be occupied and used for any purposes that are permitted from time to time under applicable statutes, ordinances, rules and regulations, governmental determinations and restrictions of the appropriate agencies of the City and County of Honolulu, and State of Hawaii. 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.

OWNERSHIP OF TITLE: A preliminary title report dated March 9, 1978, issued by Title Guaranty of Hawaii Incorporated indicates that the fee owner of the land to be submitted to the regime is Jade Corporation, a Hawaii corporation, 1139 9th Avenue, Honolulu, Hawaii 96816; Telephone No. 734-7422. Developer, through its two general partners, is purchasing said property pursuant to an unrecorded agreement dated March 17, 1978, a copy of which has been supplied to the Commission.

ENCUMBRANCES AGAINST TITLE: Said preliminary title report dated March 9, 1978, issued by Title Guaranty of Hawaii Incorporated, and other information supplied 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, City and County of Honolulu, Hawaii.

2. Mortgage dated June 3, 1966, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 5349, Page 315, which Mortgage was assigned to Provident Mutual Life Insurance Company of Philadelphia, a Pennsylvania corporation by instrument dated June 7, 1966, recorded as aforesaid in Liber 5349, Page 320.

3. Unrecorded lease dated January 22, 1976, in favor of Arthur K. Hashimoto, dba Sanek Barber Shop, covering Apartment No. C-102.

4. Unrecorded lease dated January 1, 1976, in favor of Clifford Brown and Soon H. Brown dba Tracy's Hair Styling, covering Apartment No. 205.

5. Unrecorded agreement dated May 17, 1978, in favor of Arthur Hashimoto and Jean Hashimoto, relating to Apartment Nos. C-102 and C-103.

6. Unrecorded agreement dated May 17, 1978, in favor of Clifford Brown and Soon H. Brown, relating to Apartment Nos. C-104, C-105, C-108 and C-109.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated April 27, 1978, 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 514A, Hawaii Revised Statutes, and particularly Sections 514A-39, 514A-63 through 514A-66, thereof.

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 the project consists of a fully constructed and existing building, which Seller is purchasing and converting to a condominium project. In connection with said conversion, Seller proposes to undertake certain remodeling of the building of the project, which should be completed prior to the Main Closing (which is defined as the date upon which at least twenty-five percent (25%) of the apartments in the project have been preclosed, as hereinafter set forth, or upon written notice by Seller to Escrow of a date for said Main Closing) in accordance with the contract, plans, and specifications supplied to Escrow, subject to such changes or modifications thereof as the Architect named above deems appropriate and/or necessary. Buyer acknowledges that Buyer has been offered an adequate opportunity to examine said plans and specifications and accepts them with such changes or modifications thereof as the Architect shall deem necessary and/or appropriate."

2. "In the event said remodeling work is not completed prior to the date of Closing, said remodeling work shall be completed within six (6) months after the commencement thereof, or by December 31, 1978, whichever date shall first occur; provided, however, such period shall be extended for any period of time during which Seller is actually and necessarily delayed in completing such remodeling work if said delay is caused by fire, earthquake, acts of God, the elements, war or civil disturbance, strikes or other disturbances, Government legislation or controls, or economic controls making it impossible to obtain the necessary labor or materials, or any other matters or conditions which do not permit the completion of such remodeling work in accordance with the anticipated schedule therefor and with respect to which Seller is not responsible by virtue of Seller's own gross negligence."

"Notwithstanding any other provision in this Agreement to the contrary, the said remodeling work shall be completed within two (2) years of the date of the execution of this Agreement by Buyer; provided, however, said two (2) year period shall be extended for any period of time during which Seller is actually and necessarily delayed in completing construction if said delay is caused by fire, earthquake, acts of God, the elements, war or civil disturbance, strikes or other disturbances, Government legislation or controls, or economic controls making it impossible to obtain the necessary labor or materials or other matters or conditions beyond the control of Seller."

3. "Buyer further agrees and declares that as part of the consideration for this Agreement, Buyer has and does hereby waive any and all claims Buyer might otherwise have against Seller because of or arising out of construction design work of the project, including but not limited to, those on account of faulty or improper construction of improvements, patent or latent defects, and code violations in building construction, whether the same should have been discovered or known to Seller."

4. "Buyer understands that the Apartment covered hereby and the project are not newly built, but were originally completed approximately in 1967, and that Seller is only undertaking the remodeling described above. Buyer agrees that Buyer will bear the risk of any defects in said property. 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. Any representation by any broker or salesman to the contrary is not authorized by Seller nor shall the same be binding upon Seller."

NOTE: PROSPECTIVE PURCHASERS SHOULD BE AWARE THAT THE SELLER'S MORTGAGE LOANS (ACQUISITION, RENEWALS AND EXTENSIONS) FOR THE PROJECT SHALL BE AND REMAIN AT ALL TIMES A SUPERIOR LIEN ON THE PROJECT, AND PURCHASERS INTENTIONALLY WAIVE AND SUBORDINATE THE PRIORITY OF LIEN UNDER THE SALES CONTRACT IN FAVOR OF THE MORTGAGE LOANS.

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 apartments are placed in trusts, as well as the retention and disbursement of said trust funds. The specimen Sales Contract specifically provides that the purchaser approve said Escrow Agreement and assume 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 shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors by a responsible managing agent. The Developer advises that it has not yet appointed an initial managing agent for the project. The specimen Condominium Sales Agreement provides that Seller may appoint the initial managing agent.

STATUS OF PROJECT: The Developer advises that project was completed in 1967, as evidenced by a Certificate of Occupancy issued by the Building Department of the City and County of Honolulu, a copy of which has been supplied to the Commission.

NOTE: The existing building is a nonconforming structure, meaning a structure which does not now comply with the present bulk, yard, setback or height regulations established by the Comprehensive Zoning Code (CZC) and applicable to the district in which it is located. Section 21-107(d) of the CZC provides in part:

"Nonconforming structure. A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) Enlargement or alteration. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity.
- (2) Damage or Destruction. If a nonconforming structure is destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter."

NOTE: The property is currently zoned B-1 (Neighborhood Business District), and therefore certain current uses of the building are nonconforming uses under new CZC regulations. Section 21-107(c)(4) of the CZC provides:

"Repairs and maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of the effective date of the provisions of this Chapter shall not be increased.

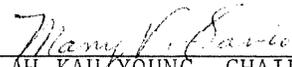
"Nothing contained in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official."

Also, in the future if an approval for a subdivision, or a building permit, is sought for any part of the project, compliance will or may be required with all State of Hawaii and City and County of Honolulu statutes and ordinances applicable thereto, including without limitation park dedication requirements.

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 1, 1978 and information subsequently submitted as of May 25, 1978.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 999 filed with the Commission on May 1, 1978. 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 KAUYOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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BUREAU OF CONVEYANCES
PLANNING COMMISSION, CITY AND COUNTY OF HONOLULU
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 999
June 2, 1978

EXHIBIT

1. Apartment Nos. C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-108, C-109, C-110 and C-111 are located on the ground floor.

2. Apartment Nos. 201, 202, 203, 204 and 205 are located on the second floor.

3. Apartment Nos. 301, 302, 303 and 304 are located on the third floor.

4. Apartment Nos. 401, 402, 403 and 404 are located on the fourth floor.

5. Apartment Nos. 501, 502, 503 and 504 are located on the fifth floor.

6. Apartment Nos. 601, 602, 603 and 604 are located on the sixth floor.

7. Apartment Nos. 701, 702, 703 and 704 are located on the seventh floor.

8. Apartment Nos. 801, 802, 803 and 804 are located on the eighth floor.

9. Apartment Nos. 901, 902, 903 and 904 are located on the ninth floor.

10. Apartment Nos. 1001, 1002, 1003 and 1004 are located on the tenth floor.

11. Apartment Nos. 1101, 1102, 1103 and 1104 are located on the eleventh floor.

12. Apartment Nos. 1201, 1202, 1203 and 1204 are located on the twelfth floor.

13. Apartment Nos. 1401, 1402, 1403 and 1404 are located on the fourteenth floor.

14. Apartment Nos. 1501, 1502, 1503 and 1504 are located on the fifteenth floor.

15. Apartment Nos. 1601, 1602, 1603 and 1604 are located on the sixteenth floor.

16. Apartment Nos. PH-1, PH-2, PH-3 and PH-4 are located on the penthouse floor.

17. Two apartments, being Apartment Nos. C-101 and C-108, are built according to a floor plan consisting of two rooms and containing a floor area of approximately 453 square feet. Each of these apartments shall have an appurtenant common interest of .7825%.

18. Eight apartments, being Apartment Nos. C-102, C-103, C-104, C-105, C-106, C-107, C-110 and C-111, are built according to a floor plan consisting of one room and containing a floor area of approximately 227 square feet. Each of these apartments shall have an appurtenant common interest of .3919%.

19. Apartment No. C-109 consists of five rooms and contains a floor area of approximately 807 square feet. This apartment shall have an appurtenant common interest of 1.3939%.

20. Two apartments, being Apartment Nos. 201 and 202, are built according to a floor plan consisting of three rooms including a living-dining-kitchenette room, a bedroom and a bathroom. Each of these apartments contains a floor area of approximately 453 square feet and shall have an appurtenant common interest of .7825%.

21. Fifty-nine apartments, being Apartment Nos. 203, 204, 205, 301, 302, 303, 304, 401, 402, 403, 404, 501, 502, 503, 504, 601, 602, 603, 604, 701, 702, 703, 704, 801, 802, 803, 804, 901, 902, 903, 904, 1001, 1002, 1003, 1004, 1101, 1102, 1103, 1104, 1201, 1202, 1203, 1204, 1401, 1402, 1403, 1404, 1501, 1502, 1503, 1504, 1601, 1602, 1603, 1604, PH-1, PH-2, PH-3 and PH-4, are built according to a floor plan consisting of seven rooms, including two bedrooms, two bathrooms, a dining room, a kitchenette, and a living room. Each of these apartments contains a floor area of approximately 906 square feet and shall have an appurtenant common interest of 1.5651%.

NOTE: IN ACCORDANCE WITH LOCAL PRACTICE, THE APPROXIMATE GROSS FLOOR AREA OF EACH APARTMENT AS SET FORTH ABOVE INCLUDES, OR MAY INCLUDE, ALL OF THE WALLS AND PARTITIONS WITHIN ITS PERIMETER WALLS, THE ENTIRETY OF ITS PERIMETER NON-PARTY WALLS AND THE INTERIOR HALF OF ITS PERIMETER PARTY WALLS, WHETHER LOAD BEARING OR NON-LOAD BEARING.