

# 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 PROMENADE  
423 Kaiolu Street  
Honolulu, Hawaii

REGISTRATION NO. 1185

### **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: January 21, 1980  
Expires: February 21, 1981

#### SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that the personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser and prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED OCTOBER 11, 1979, AND INFORMATION SUBSEQUENTLY FILED AS OF JANUARY 15, 1980. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND IN SUBMITTING INFORMATION ON THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. THE PROMENADE is a proposed leasehold condominium project consisting of fourteen (14) residential apartments, arranged throughout one apartment building, with nine (9) parking stalls.
2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for the registration of this 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. Preliminary advertising and promotional matter has not been submitted 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 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 is made a part of the registration of THE PROMENADE condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers and obtaining a signed receipt for same.
7. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, January 21, 1980, unless a Supplementary or Final 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 PROMENADE

LOCATION: The approximately 9,305.00 square feet of land to be committed to the regime is situated at Waikiki, District of Kalia, City and County of Honolulu, State of Hawaii.

TAX KEY: First Division, 2-6-17-6.

ZONING: Apartment Precinct, Waikiki Special Design District.

DEVELOPER: Kaiolu Conversion Venture, a joint venture, whose business and post office address is 733 Bishop Street, Suite 2500, Honolulu, Hawaii, 96813 (Phone: 524-8755).

The partners of KAIOLU CONVERSION VENTURE are:

Bernard Gilbert	Bethesda, Maryland
Gertrude Gilbert	Bethesda, Maryland
David Priddy	99-1440 Aiea Heights Drive, #26 Aiea, Hawaii
Carolyn Priddy	99-1440 Aiea Heights Drive, #26 Aiea, Hawaii
Edward G. Freeman	6977 Kalaniana'ole Highway Honolulu, Hawaii
Harue Freeman	6977 Kalaniana'ole Highway Honolulu, Hawaii
International MBA Associates	733 Bishop Street, Suite 2500 Honolulu, Hawaii

ATTORNEY REPRESENTING DEVELOPER: Robbins Chu & Reilly  
(Attention: Harold Chu), 841 Bishop Street, Suite 2220,  
Honolulu, Hawaii, 96813 (Phone: 524-2355).

DESCRIPTION OF PROJECT AND APARTMENTS:

The project will consist of one two (2) level building, without basements, containing fourteen (14) residential apartments. Each floor contains seven (7) apartments. The building will be constructed principally of wood, glass, concrete, concrete hollow tile, and other allied building materials.

Fourteen (14) freehold estates will be designated in the spaces within the perimeter walls, floors and ceilings of each of the fourteen (14) apartments units of the Project. The location and description of said apartments are shown on the proposed Condominium Map, Exhibit A attached, and the following paragraphs:

The Apartment types and rooms therein are:

TYPE A. The Type A apartment is a one bedroom apartment which consists of one bedroom, a living room, kitchenette unit and one lanai for a floor area of approximately 420 square feet not counting the lanai. The lanai has a floor area of approximately 144 square feet. Each of said apartment type has one parking stall as a limited common element.

TYPE B. The Type B apartment is a one bedroom apartment which consists of one bedroom, a living room, kitchenette unit for a floor area of approximately 420 square feet. Each of said apartment type has one parking stall as a limited common element.

TYPE C. The Type C apartment is a one bedroom apartment which consists of one bedroom, a living room, kitchenette unit for a floor area of approximately 420 square feet. Said apartment type does not have a parking stall.

The square footage areas for the respective apartment types are computed from and to the center lines of the apartment perimeter party walls and perimeter walls directly across the party walls and to the exterior surface of all other apartment perimeter walls, not including the area to the edge of the lanais.

Each apartment shall have immediate access to a corridor which leads to stairways, each stairway leading to the ground floor or common elements leading to the grounds and roadways of the Project.

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, any adjacent outdoor or indoor/outdoor lanai or lanais shown on the condominium map to the exterior edges of the concrete floor slab thereof, all glass windows, louvers, doors and panels along the perimeter, and the fixtures installed therein, including refrigerator, carpeting and drapery hardware.

COMMON ELEMENTS: The proposed Declaration reflects that the remainder of the Project, called the "common elements", shall include but is not limited to all of the land and improvements other than apartments, specifically including:

- (a) Said land in fee simple;
- (b) Certain easements as described in Exhibit A of the proposed Declaration;
- (c) All foundations, floor slabs, columns, beams, supports, unfinished perimeter roofs and load-bearing walls, roofs and walkways around and between said building;
- (d) All yards, grounds, landscaping, planters, fences, mail boxes, refuse facilities, if any, which are appurtenant to the Project;
- (e) All roadways, sidewalks, stairways and driveways which are rationally of common use by owners of more than one apartment;

(f) 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;

(g) Hot tub and barbecue;

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

LIMITED COMMON ELEMENTS: The proposed Declaration states that certain parts of the common elements, called the "limited common elements", are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements. 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 as a common expense in proportion to the common interests appurtenant to their respective apartments.

Apartments 101, 102, 103, 104, 105, 106, 107, 201 and 207, shall have appurtenant to it as a limited common element, one (1) parking stall. Each parking stall shall be numbered and designated on the Condominium Map and shall have the same number as the apartment to which it shall be appurtenant. The Developer reserves the right to initially assign, any parking stalls to any apartments by amendment of the Declaration and Condominium Map and respective apartment leases involved; provided that until so assigned, all unassigned parking stalls shall not be limited common elements but shall remain common elements. After their initial assignment, stalls may be reassigned from time to time from apartment to apartment within the Project by Amendment to the Declaration and Condominium Map.

INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration reflects that the undivided interests established and to be conveyed with the respective apartments, shall be as shown in Exhibit A. Said undivided interests represent the proportionate shares of the separate owners of the respective apartments in the profits and common expenses in the common areas and facilities as well as their proportionate representation for voting purposes in the Association of Apartment Owners.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration reflects that the apartments may only be used for any permitted purposes under applicable laws and governmental regulations and that the Type A, B and C apartments may only be used as dwellings by the respective owners thereof, their tenants, guests, families and domestic servants and for no other purpose, except that they may also be rented for transient residential use, as permitted by law. The owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration.

OWNERSHIP OF TITLE: A preliminary report issued on September 10, 1979, by Long & Melone Escrow, Limited, certified that Charles Godsai Street has title to the land to be committed to the project. By Ground Lease and Agreement of Sale dated May 1, 1972, filed as Land Court Document No. 581111, Charles Godsai Street leased said land to Robert Harold Gerell, husband of Jolene Francine Gerell, and Louis Randolph Williams, husband of Pamela Dean Williams, as Tenants in Common, for a term of 65 years. Said Ground Lease and Agreement of Sale was assigned to Donald Vern Batman, husband of Toby Joyce Batman, by Assignment of Lease and Assignment of Agreement of Sale dated February 2, 1978, filed as Land Court Document No. 859017. Said Ground Lease and Agreement of Sale was sold to Kaiolu Conversion Venture, a Hawaii joint venture, by Sub-Agreement of Sale dated June 1, 1979, and filed as Land Court Document No. 944622 and duly noted on Transfer Certificate of Title No. 59976.

ENCUMBRANCES AGAINST TITLE: Said preliminary report issued on September 10, 1979, by Long & Melone Escrow, Limited, identified the following encumbrances on the land:

A. As to Lot 46 only:

1. Easement for public utilities as noted on Map 1 filed with Land Court Application 1293.
2. Agreement dated March 13, 1940, between John H. Magoon, Alfred K. Magoon and Eaton H. Magoon, Trustees et al., as Grantors and the Hawaiian Electric Company, Limited, as Grantee, the original of which Agreement is on file in the Office of the Clerk of the Land Court.
3. Stipulation dated August 7, 1940, which is also on file in the Office of the Clerk of said Land Court.
4. Easement "E" (10 feet wide) as shown on Map 3 filed with said Land Court Application 1293 purpose being for public utilities and whose location is 5 feet within easterly corner of said Lot.

B. As to Lot 4-A-1 only:

Easement "A" (10 feet wide) as shown on Maps 3 and 4 filed with said Land Court Application 826 the purpose being for public utilities and whose location being 5 feet within easterly boundary of said Lot.

C. As to Both Lots:

1. Grant of Easement:

In favor of the City and County of Honolulu on July 26, 1966 and filed as Land Court Document No. 400033, the purpose being to construct underground sewer pipeline(s) through and under and across Easements A and E.

2. Said Ground Lease and Agreement of Sale dated May 1, 1972, filed as Land Court Document No. 581111, from Charles Godsall Street, husband of Patience Hilda Street, to Robert Harold Gerell, husband of Jolene Francine Gerell, and Louis Randolph Williams, husband of Pamela Dean Williams, as Tenants in Common.

Said Ground Lease and Agreement of Sale was assigned to and now held by Donald Vern Batman, husband of Toby Joyce Batman. Said Sublease is subject to the following:

- (a) Mortgage dated February 3, 1978, filed as Land Court Document No. 859018, made by Donald Vern Batman, husband of Toby Joyce Batman, as Mortgagor, to Rainbow Finance Corporation, as Mortgagee, to secure the repayment of the sum of \$95,000.00 all according to the terms of that certain promissory note of said mortgage therein referred to.
  - (b) Assignment, as Security, dated February 3, 1978, recorded in the Bureau of Conveyances in Book 12708, Page 290, made by Donald Vern Batman, husband of Toby Joyce Batman, as Assignor, to Rainbow Finance Corporation, as Assignee, which all right, title and interest in Agreement of Sale and the property covered thereby as security for the payment of the foregoing mortgage.
  - (c) Financing Statement recorded February 6, 1978, in the Bureau of Conveyances in Book 12708, at Page 287, made by Donald Vern Batman, as Debtor, to Rainbow Finance Corporation, as Secured Party, which said Financing Statement covers the fixtures and/or tangible personal property sold and conveyed to Lessee by this instrument are presently located in or used in connection with said property.
3. Sub-Agreement of Sale dated June 1, 1979, filed as Land Court Document No. 944622, by and between Donald Vern Batman, husband of Toby Joyce Batman, as Sub-Vendor, and Kaiolu Conversion Venture, a Hawaii Joint Venture, as Sub-Vendee, which said Sub-Agreement of Sale requires the consent of Sub-Vendor for assignment or sale of Sub-Vendee's interest which Sub-Vendor agreed to sell leasehold interest together with interest in all of the buildings and improvements.

The Developer has advised the Commission that at the time the first Apartment Lease is entered into between said owners and tenant as Lessors, and an apartment purchaser, as Lessee, every mortgage and other lien affecting both such apartment and any other apartment shall be paid and satisfied of record, or the apartment being leased shall be released therefrom by partial release duly recorded.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated September 7, 1979, identifies American Abstract and Escrow, a Hawaii corporation, as Escrow Agent. On examination the specimen Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Hawaii Revised Statutes, Chapter 514A, and particularly Sections 514A-39 and 40 and Section 514A-63 through Section 514A-66.

Among other provisions, the executed Escrow Agreement, which deals with the disposition of purchaser's funds, states that a purchaser under a Receipt and Sales Contract shall have the right to cancel his agreement to purchase and to obtain a refund of all moneys held by Escrow which were paid by such purchaser under such sales agreement if (a) (i) the Final Public Report is not issued by the Real Estate Commission within one year from the date of issuance of the Preliminary Public Report, or (ii) there is any change in the condominium building plans subsequent to the execution of the Receipt and Sales Contract and prior to the issuance of permits for construction of buildings, and Seller fails to obtain the purchaser's written approval or acceptance of the specific change (unless ninety (90) days have elapsed since the purchaser has accepted in writing the apartment or he first occupied the apartment), and (iii) the Final Public Report differs in any material respect from the Preliminary Public Report, and (b) Escrow receives written notice from Seller to return to a purchaser under a Sales Contract the funds of such purchaser then held by Escrow under the Escrow Agreement.

Among other provisions, said Sales Contract provides for the subordination of purchaser's interest in the Sales Contract to the lien of any construction loan. The purchaser is urged to read both the Escrow Agreement and Sales Contract with care.

MANAGEMENT AND OPERATIONS: The Developer has advised that it is currently negotiating with INTERNATIONAL MBA ASSOCIATES, a Hawaii corporation, for a property management and agency agreement.

The Developer and its agents are not offering to provide services relating to the sale or rental of apartments purchased in the project, and no representation or reference to that effect has been or will be made by or on behalf of the Developer.

STATUS OF PROJECT: The Developer has advised that remodeling of said building and apartments commenced approximately October 22, 1979 and that Pioneer Mortgage Corporation has agreed to provide take out financing.

NOTE: The Promenade is a condominium conversion development originally constructed in 1968. The Developer, based upon a report prepared by James L. Zahn, A.I.A., has informed the Commission that the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium has been certified as acceptable for the

purpose of multi-family housing and more particularly condominium conversion. However, the Developer has also disclosed that there exists a differential settlement on the foundation of the Diamond Head/Mauka Corner of the building. The settlement has caused a structural crack in the 8 inch concrete block wall on the Diamond Head side, but it appears that the settlement has subsided, and the crack can be repaired by epoxy grout. The Developer has also represented that there are no outstanding notices of uncured violations of the building codes or other municipal regulations currently on file that might affect the Project. Purchasers and prospective purchasers should examine the Disclosure Abstract with care, particularly as to the limited warranty.

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 on October 11, 1979 and information subsequently filed as of January 15, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1185 filed with the Commission on October 11, 1979.

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

Distribution:

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

REGISTRATION NO. 1185

JANUARY 21, 1980

DESIGNATION OF PARKING, UNIT TYPE, ROOMS, AREA  
AND COMMON INTEREST OF APARTMENTS IN THE PROMENADE

Apartment Number	Parking Space Numbers	Unit Type	Number of Rooms	Number of Floors	Approximate Area in Each Apartment in Square Feet (Excluding Lanais)	Percent of Common Interest
101	101	A	4	1	420	7.59571
102	102	A	4	1	420	7.59571
103	103	A	4	1	420	7.59571
104	104	A	4	1	420	7.59571
105	105	A	4	1	420	7.59571
106	106	A	4	1	420	7.59571
107	107	A	4	1	420	7.59571
201	201	B	4	1	420	6.09757
202		C	4	1	420	6.09757
203		C	4	1	420	6.09757
204		C	4	1	420	6.09757
205		C	4	1	420	6.09757
206		C	4	1	420	6.09757
207	207	B	4	1	420	6.09757