

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on

DIAMOND HEAD BEACH HOTEL
2947 Kalakaua Avenue, Honolulu, Hawaii 96815

REGISTRATION NO. 1338

This Report Is Not an Approval or Disapproval of This Condominium Project

It was prepared as a supplement to an earlier Report dated November 21, 1980, issued by the Real Estate Commission on the above 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: December 31, 1981
Expires: February 1, 1983

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 or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED OCTOBER 31, 1980, AND ADDITIONAL INFORMATION FILED AS OF DECEMBER 23, 1981. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT IS COMPLYING THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report of November 21, 1980, on DIAMOND HEAD BEACH HOTEL, Registration No. 1338, the Developer reports that certain material changes have been made in the project. This Supplementary Public Report (pink paper stock) amends the Preliminary Public Report (yellow paper stock), becoming a part of the DIAMOND HEAD BEACH HOTEL registration. The Developer

is responsible for placing a true copy of this Supplementary Public Report in the hands of all purchasers and prospective purchasers, along with a copy of the Preliminary Public Report and the amended Disclosure Statement. The Developer is responsible for securing from each purchaser or prospective purchaser a signed receipt signifying that he has had an opportunity to read both Reports.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Supplementary Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime, the Bylaws of the Association of Apartment Owners and the Condominium Map will be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii immediately prior to the application for a Final Public Report.
4. No advertising and promotional materials have 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 Chapter 514A, Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. This Supplementary Public Report automatically expires thirteen (13) months after date of issuance December 31, 1981, unless a Final or further Supplementary Public Report issues, or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information in the Preliminary Public Report of November 21, 1980, under the topical headings NAME OF PROJECT, LOCATION, ZONING, DEVELOPER, DESCRIPTION OF PROJECT, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED, PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE, OWNERSHIP OF TITLE, ENCUMBRANCES, PURCHASE MONEY HANDLING, MANAGEMENT AND OPERATION AND STATUS OF PROJECT has been changed. The Developer reports that no other information in the Preliminary Public Report has changed.

NAME OF PROJECT:

The name of the Project has been changed to DIAMOND HEAD BEACH HOTEL.

LOCATION:

The Project is located at 2947 Kalakaua Avenue, Honolulu, Hawaii.

ZONING:

The property is presently zoned A-4 Apartment and is located in the Diamond Head Historic, Cultural and Scenic District. The building was constructed under the Revised Ordinances of the City and County of Honolulu 1961, as amended, and the property was then zoned Hotel. The building is therefore maintained as a nonconforming structure and a nonconforming hotel use. In the event of a major casualty a variance would be required for rebuilding. The current Comprehensive Zoning Code restricts repairs in any twelve-month period to 10% of the replacement value of the building and there are other restrictions on nonconfirming structures and uses. Purchasers should be advised that maintenance of the nonconforming hotel use imposes a requirement of a 24-hour front desk service and that less than half the apartments in the Project may contain kitchens: since the Project will have the maximum number of kitchens at the time the apartment leases are issued, a purchaser of an apartment which has no kitchen will not be able to install one; this affects Type H and H-1 apartments. See the topical heading "Purpose of Buildings and Restrictions as to Use" for further details. If a kitchen is unlawfully installed in a Type H or H-1 apartment and maintained for a period of one year, then the building may lose its status as a nonconforming structure and use and the City and County of Honolulu could bring action against all the Apartment Owners.

DEVELOPER:

The sole developer of the Project is Hawaiian Beach Investment Corporation, a Hawaii corporation, 130 Merchant Street, Suite 1910, Honolulu, Hawaii, Telephone: (808) 524-5252.

DESCRIPTION OF PROJECT:

The description of the Project has been changed. A description of the building and the apartments is contained in the revised Exhibit "A" attached hereto.

COMMON ELEMENTS:

The sundeck and jacuzzi have been deleted from the Project. The front desk, lobby area, offices and workrooms have been deleted from the common elements and made the front desk apartment described under DESCRIPTION OF PROJECT.

The following provision has been added to the Declaration with respect to the parking stalls: The parking spaces of the Project shall not be limited common elements and shall not be assigned to any Apartment, but shall always remain for the common use of all Apartments and this provision shall not be amended or modified without the prior written consent of the Director of the Department of Land Utilization of the City and County of Honolulu, or if such office shall no longer exist, of the official charged with administration of the Zoning ordinances of the political subdivision of which the Project is a part.

LIMITED COMMON ELEMENTS:

The parking stalls are no longer limited common elements. The stairway linking the lanai of Apartment R-2 to the balcony walkway of the penthouse floor is appurtenant to and for the exclusive use of Apartment R-2.

PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED:

The common interests appurtenant to the apartments have been changed and are listed in Exhibit "A".

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE:

(a) Residential Apartments. Each residential apartment shall be occupied and used only for residential or hotel purposes.

(b) Lodging Units. Each lodging unit will be used only as a hotel room and for no other purpose; possession of the lodging unit will be held by a hotel operator under a lease or management agreement which will provide for at least the following:

(i) the hotel operator will conduct a hotel operation at the Project which will include the provision of customary hotel services including: maid service, desk service, switchboard operation, reservation service and valet parking;

(ii) the owner's personal use of the lodging unit will be restricted to thirty (30) days in any twelve (12) consecutive months;

(iii) during the owner's personal use of the lodging unit the owner will pay to the hotel operator a use rate established in the management agreement to cover the hotel services provided to the owner.

No cooking facility or heating element of any kind on or in which food can be cooked or heated, will be installed

in any lodging unit, including without limitation, an oven, microwave oven, toaster oven, range or hot plate; but a lodging unit may contain a coffee pot. Every hotel operator and every Apartment Owner (as defined in the Bylaws) of a lodging unit shall execute and record an affidavit acknowledging this provision and agreeing to abide by it in a form attached to the Declaration as Exhibit "C". Violation of this provision by the hotel operator shall constitute a material breach of the lease or management agreement and shall be grounds for termination.

The use restrictions provided above with respect to lodging units shall not be amended or modified without the prior written consent of the Director of the Department of Land Utilization of the City and County of Honolulu, or if such office shall no longer exist, of the official charged with administration of the zoning ordinances of the political subdivision of which the Project is a part.

(c) Time Sharing. Time share units and time share plans as defined in Section 514E-9, Hawaii Revised Statutes, as amended, shall be prohibited in the Project unless the Declaration is duly amended by the affirmative vote of at least seventy-five percent (75%) of the common interests (or such higher percentage as may be required by applicable law) with the approval of the Fee Owners and any other person or governmental entity whose consent may be required; in the event of such amendment time share units and time share plans shall be permitted in accordance with the provisions of such amendment and applicable law. In no event shall such amendment affect the provisions of subsection (b) Lodging Units without the prior written consent of the Director of the Department of Land Utilization as required by subsection (b).

OWNERSHIP OF TITLE:

An updated title report has been submitted to the Commission dated November 19, 1981, issued by Title Guaranty of Hawaii Incorporated. The title report shows that the fee owner is unchanged from the Preliminary Public Report and the master lease is now held by the Developer.

ENCUMBRANCES:

The updated Preliminary Report shows the following encumbrances:

(i) Real Property Taxes, Second installment, Fiscal Year July 1, 1981 - June 30, 1982

(ii) Location of the seaward boundary in accordance with the Laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance

(iii) Terms of the Lease dated October 5, 1967 filed as Land Court Document No. 435521, which Lease was assigned to Developer by Assignment of Lease dated September 8, 1981 filed as Land Court Document No. 1088210

(iv) Mortgage and Financing Statement dated October 9, 1981 in favor of First Hawaiian Bank filed as Land Court Document No. 1088212.

Developer advises the Commission that the Mortgage will be partially released as to any apartment prior to issuance of the Apartment Lease.

PURCHASE MONEY HANDLING:

Copies of two revised specimen Deposit Receipt and Sales Contracts (the "Sales Contract") and a new executed Escrow Agreement have been submitted as part of the registration. The Escrow Agreement dated March 20, 1981 identifies First Hawaiian Bank as "Escrow". Upon examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly with Sections 514A-37, 39, 40, 63 through 66. A prospective purchaser should carefully examine the form of Sales Contract and the Escrow Agreement to determine the time for and the amount of the installment payments on the purchase price and his obligations to pay the closing costs. It is incumbent upon the purchaser to read and understand the Escrow Agreement before signing the Sales Contract since the Escrow Agreement prescribes the procedure for receiving and disbursing the purchaser's installment payments and the Sales Contract provides that the purchaser approves the Escrow Agreement. The balance of the information under PURCHASE MONEY HANDLING remains unchanged.

MANAGEMENT AND OPERATION:

The initial Managing Agent for the Project has been changed to Colony Resorts, Inc. Developer advised the Commission that the Management Contract will be executed prior to application for the Final Public Report.

STATUS OF PROJECT:

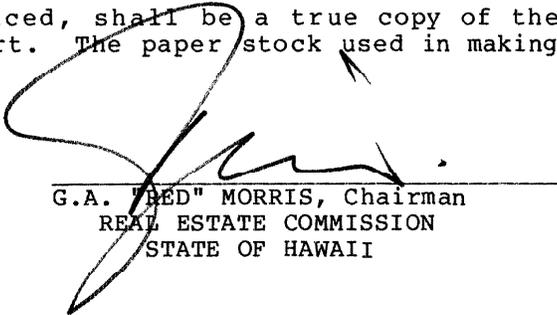
The Developer has advised the Commission that the building was completed in February, 1969. A verified statement from the City and County of Honolulu, Building Department, confirms that the structure met all code requirements at the time of construction and no variances or special permits were granted to allow deviations from any applicable codes; the few deficiencies referred to in the Preliminary Public Report have been corrected. The Developer advises the Commission that it has received a Certificate of Appropriateness

under the Diamond Head Historic Cultural and Scenic District, and has immediately applied for its Building Permit. Developer currently estimates that refurbishment of the Project will commence on or about February 1, 1982 and will be completed on or about May 1, 1983.

A 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 October 31, 1980, and additional information filed as of December 23, 1981.

This SUPPLEMENTARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1338 filed with the Commission on October 31, 1980.

The report when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be pink.



G.A. "RED" MORRIS, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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- BUREAU OF CONVEYANCES
- DEPARTMENT OF LAND UTILIZATION
- CITY AND COUNTY OF HONOLULU
- ESCROW AGENT
- FEDERAL HOUSING ADMINISTRATION

REGISTRATION NO. 1338
DATE: December 31, 1981

Description of Building. The Project consists of one 15-story building plus basement. The floors are designated basement, ground, second through twelfth, penthouse, roof and fifteenth. The building progressively narrows from the ground floor through the top floor. The basement contains a ramp up to the ground floor, three stairways, elevator, a transformer room, storage room, utility room, driveway and twenty-two parking stalls. The ground floor contains: a ramp down to the basement; two stairways, an elevator and an entry walkway from the front entry to the rear of the building; six apartments including the front desk apartment, a recreation deck and steps leading from the recreation desk. The second through twelfth and the penthouse floors each contain two stairways, an elevator, a balcony walkway, four apartments on even numbered floors and five apartments on odd numbered floors and penthouse floor. The roof level contains two stairways, a balcony walkway, a laundry room and two apartments. The fifteenth floor contains one stairway, an elevator machinery room and mechanical area. The Project contains sixty-two apartments including thirty residential units with kitchens, thirty-one lodging units without kitchens and one front desk unit. Should the descriptions and the divisions set forth in this Declaration conflict with the depictions and the divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map is intended to show only the layout, location, apartment numbers and dimensions of the apartments, elevations and the numbers of parking stalls and is not intended and shall not be deemed to contain or make any other representation or warranty. The building is constructed primarily of reinforced concrete.

EXHIBIT "A"

DESCRIPTION OF APARTMENTS

LOCATION:

The Project contains sixty-two apartments. Six apartments are located on the ground floor, four apartments are located on each of the even numbered floors on the second through twelfth floors. Five apartments are located on each of the odd numbered floors on the third through eleventh floors and the penthouse floor. Two apartments are located on the roof level. The location of each apartment in the Project may be determined by reference to its number. The first digit in a three-digit apartment number and the first two digits in a four-digit apartment number indicate the floor on which the apartment is located. Penthouse apartments are preceded by the letters "PH" and roof apartments by the letter "R". The last two digits in each number indicate the position of the apartment on its floor, "01" being at the makai end of the building and "05" at the mauka end. In the case of rooftop apartments "R-1" is at the makai side and "R-2" at the mauka side.

MODEL TYPES:

Each apartment in the Project will be one of nine types. Units of the same type on different floors differ in size because the building progressively narrows and lanais are differently arranged. The size differences are listed on the schedule which forms part of this Exhibit "A". Each apartment has a lanai. The types are described as follows:

1. Type H. There are thirty Type H apartments which are lodging units, without kitchens and include a hotel room with bathroom and vanity area; Type H apartments on the ground floor include a dressing area.

2. Type H-1. There is one Type H-1 apartment which is a lodging unit, without kitchen and includes a hotel room with bathroom, dressing area and vanity area and a study.

3. Type AS. There are five Type AS apartments which are studio apartments and include a living/sleeping room, bathroom and kitchen.

4. Type AlA. There are seven Type AlA apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom and bathroom, foyer and storage area (except that apartment R-1 has no storage area).

5. Type AlB. There are five Type AlB apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom and bathroom.

6. Type AlC. There are six Type AlC apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom, dressing area and bathroom.

EXHIBIT "A"

7. Type AlD. There is one Type AlD apartment which is a one-bedroom apartment and includes a living room, bedroom, bathroom, dining room and kitchen.

8. Type A2. There are six Type A2 apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom, bathroom and study, foyer and storage area.

9. Type Front Desk. There is one Front Desk apartment which includes the lobby area, front desk, office and toilet.

The kitchens of Types AS, AlA, AlB, AlC, AlD and A2 include a sink with garbage disposal, a range with self-ventilating hood, a dishwasher and a refrigerator.

Each bathroom contains a vanity, toilet and bath/shower. The list which forms part of this Exhibit "A" shows apartment numbers, types, net living area, lanai area, total area and percentage of common interest for each apartment.

EXHIBIT "A"

AREA IN SQUARE FEET

<u>Apt. No.</u>	<u>Type</u>	<u>Net Living</u>	<u>Lanai</u>	<u>Total</u>	<u>Percentage of Common Interest</u>
Front Desk		932	387	1,319	1.80
101	H	466	233	699	1.80
102	H	466	233	699	1.80
103	H	466	233	699	1.80
104	H	466	233	699	1.80
105	H	466	233	699	1.80
201	AlA	944	390	1,334	2.80
202	AlB	596	81	677	1.30
203	AlC	793	81	874	1.80
205	AS	385	146	531	0.93
301	A2	1,129	406	1,535	3.30
302	H	373	48	421	0.93
303	H	373	48	421	0.93
304	H	373	48	421	0.93
305	AS	375	139	514	0.93
401	AlA	900	364	1,264	2.80
402	AlB	563	76	639	1.30
403	AlC	760	76	836	1.80
405	AS	363	134	497	0.93
501	A2	1,067	380	1,447	3.30
502	H	359	43	402	0.93
503	H	359	43	402	0.93
504	H	359	43	402	0.93
505	H	352	127	479	0.93
601	AlA	854	340	1,194	2.80
602	AlB	531	71	602	1.30
603	AlC	729	71	800	1.80
605	H	342	120	462	0.93
701	A2	1,002	356	1,358	3.30
702	H	346	38	384	0.93
703	H	346	38	384	0.93
704	H	346	38	384	0.93
705	H	330	114	444	0.93
801	A1A	810	314	1,124	2.80
802	AlB	499	66	565	1.30
803	AlC	684	66	750	1.80
805	H	319	107	426	0.93
901	II	946	329	1,275	3.30
902	H	333	33	366	0.93
903	H	333	33	366	0.93
904	AS	333	33	366	0.93
905	H	307	101	408	0.93

EXHIBIT "A"

<u>Apt. No.</u>	<u>Type</u>	<u>Net Living</u>	<u>Lanai</u>	<u>Total</u>	<u>Percentage of Common Interest</u>
1001	AlA	769	288	1,057	2.80
1002	AlB	469	62	531	1.30
1003	AlC	664	62	726	1.80
1005	H	301	88	389	0.93
1101	A2	868	309	1,177	3.30
1102	H	318	30	348	0.93
1103	H	318	30	348	0.93
1104	H	318	30	348	0.93
1105	AS	291	92	383	0.93
1201	AlA	696	272	968	2.80
1202	H1	407	60	467	1.30
1203	AlC	595	60	655	1.80
1205	H	260	93	353	0.93
PH01	A2	753	319	1,072	3.30
PH02	H	263	30	293	0.93
PH03	H	263	30	293	0.93
PH04	H	263	30	293	0.93
PH05	H	236	107	343	0.93
R1	AlA	595	294	889	2.80
R2	AlD	912	333	1,245	3.30

EXHIBIT "A"