

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

KAPIOLANI BANYAN
2752 Kaaha Street
Honolulu, Hawaii

Registration No. 1405

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 5, 1981
Expires: June 5, 1982

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 March 27, 1981 AND INFORMATION SUBSEQUENTLY FILED AS OF April 29, 1981. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIME LAW, CHAPTER 514A, HAWAII REVISED STATUTES, as amended.

1. KAPIOLANI BANYAN is a proposed fee simple condominium project consisting of one six level building (two levels of parking and four levels of apartments) containing 44 residential apartments. There shall be 71 parking stalls, 3 of which are compact stalls and 68 of which are standard stalls.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and the issuance of this Preliminary Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime and the Bylaws have not been executed or filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii.
4. As of this date no advertising and promotional matters have been submitted to the Commission pursuant to its rules and regulations.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, May 5, 1981, unless a Supplementary or Final Public Report issues, or the Commission, upon review of registration, issues an order extending the effective date of this report.
7. This Preliminary Public Report is made a part of the KAPIOLANI BANYAN condominium project. The developer shall be responsible for placing this Preliminary Public Report (yellow paper stock), together with the Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt therefor from each such person.

NAME OF PROJECT: KAPIOLANI BANYAN

LOCATION: The project is located at the corner of Kaaha Street and Kapiolani Boulevard and consists of 24,287 square feet of land.

TAX KEY: 2-7-18:30, 31 and 38

ZONING: A-4, Apartment

DEVELOPER: KAAHA PARTNERS, a Hawaii limited partnership whose business and post office address is c/o Sheldon S. H. Zane Development and Realty Co., Inc., Suite 1250, Grosvenor Center, 733 Bishop Street, Honolulu, Hawaii 96813 (Telephone: 524-4595). The general partner of KAAHA PARTNERS is Sheldon S. H. Zane Development and Realty Co., Inc., a Hawaii Corporation.

ATTORNEY REPRESENTING DEVELOPER: Char, Hamilton Taylor & Thom (Attention: Geoffrey Hamilton), 1990 Grosvenor Center, 733 Bishop Street, Honolulu, Hawaii 96813; Telephone: 524-3824.

DESCRIPTION OF PROJECT AND APARTMENTS: The project shall consist of one six level building containing forty-four (44) residential apartments. The building will be constructed of reinforced concrete, glass and appropriate trim. There are four (4) 1-bedroom apartments and forty (40) 2-bedroom apartments.

The types of apartments and their locations, number of rooms, and other data are more particularly described in Exhibit "A" attached hereto. The approximate area of each apartment is shown in Exhibit "B".

The square foot floor area of each apartment shown on Exhibit "B" includes a portion of the common elements and is measured as follows: each apartment floor area includes all the walls and partitions within its perimeter walls, any glass windows or panels along the perimeter; the outer edge of the floor slab, including columns; the entirety of perimeter non-party walls, including columns, and the interior half of the perimeter party walls, whether load bearing or non-load bearing; the inner decorated or finished surfaces of the floors and ceilings and any adjacent lanai shown on the Condominium Map.

Each apartment is designated as a separate freehold estate. The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter 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 walls, the inner decorated or finished surfaces of all walls, floors and ceilings, any doors, windows or panels along the perimeters and all fixtures originally installed therein. Each apartment shall also include any lanai or lanais to which such apartment has direct, exclusive access.

COMMON ELEMENTS: One estate is hereby designated in all common elements of the project which include all other portions of the project other than the apartments (except as herein specifically included) and all other common elements mentioned in Chapter 514A, Hawaii Revised Statutes, which are actually included in the project, including specifically but not limited to:

(a) Said land in fee simple.

(b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter and load bearing walls, chases, roofs and walls and walkways around said building.

(c) All yards, grounds, landscaping, retaining walls, planters, recreational facilities, whirlpool bath, mail boxes, electric room, storage space, waiting areas and all refuse facilities.

(d) All parking areas and spaces (which include 71 spaces appurtenant to the apartments as described below under the heading Limited Common Elements), driveways, ramps and walkways.

(e) All ducts, sewer lines, electrical equipment, central water heating systems, wiring, pipes and other central and appurtenant transmission facilities and installations on, over, under and across the project which serve more than one apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution.

(f) 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.

(g) The limited common elements described below.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called and designated "limited common elements", are set aside and reserved for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(a) One or two parking spaces shall be appurtenant to and for the exclusive use of each apartment as designated on Exhibit "B". Upon compliance with the provisions of Section 514A of the Hawaii Revised Statutes, any parking space may be transferred from apartment to apartment in the Project.

(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.

PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED TO PURCHASERS: Each apartment shall have appurtenant thereto an undivided percentage interest in the common elements of the project as shown opposite the number of each apartment in Exhibit "B" attached hereto and the same percentage share in all common profits and expenses of the common elements of the project, and, except as herein expressly provided for, all other purposes, including voting.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The residential apartments shall at all times be occupied and used for residential purposes only.

The House Rules submitted to the Commission indicate in part that (1) pets must be registered, the Board of Directors may limit the number of pets allowed, and may also require the immediate removal of pets that are a nuisance; (2) occupancy is limited to not more than two persons per bedroom in each apartment, except that this occupancy may be exceeded by members of the immediate family of the owner, renter or lessee; and (3) no fires or barbecuing will be permitted on any apartment lanais.

OWNERSHIP OF TITLE: A Preliminary Title Report dated March 5, 1981, prepared by Title Guaranty of Hawaii, Inc. indicates that fee simple title of the property is vested as follows:

- 1) Wah Chan Thom and Jannie Luke Thom (Parcel 30)
- 2) Benjamin Dung Loy Kam and Eleanor Kam (Parcel 31)
- 3) Alexander Young Ha Kim and Patricia Smith Kim (Parcel 38)

The Developer has entered into separate Deposit Receipt Offer and Acceptance agreements with each of the fee owners for purchase of the properties committed to the horizontal property regime. The anticipated sale is subject to Developer obtaining a building permit.

ENCUMBRANCES: Said Preliminary Title Report dated March 5, 1981, states that title to the land is subject to:

1. Real Property taxes that are due and owing; reference is made to the Office of the Tax Assessor, First Division.
2. -AS TO FIRST:- (TAX KEY 2-7-18-30)
 - (A) Easement "D", located along the Easterly boundary of Lots 2-A-1-C-1 and 2-A-1-M-1, as shown on Map 19, as set forth by Land Court Order No. 8710, filed November 24, 1948.
 - (B) Perpetual easement across Easement "D" for purposes of ingress and egress and all other purposes appurtenant to Lot 2-A-1-D, in favor of Bernice Yee Ching.
 - (C) Grant in favor of Hawaiian Electric Company, Inc., dated November 14, 1941, filed as Land Court Document No. 61357, for utility purposes.
 - (D) Lot 2-A-1-M-1 has access out to Kapiolani Boulevard over Lot 2-A-1-C-1, as set forth by Land Court Order No. 4067, filed June 20, 1940.
 - (E) MORTGAGE

MORTGAGOR : WAH CHAN THOM and JANNIE LUKE THOM, husband and wife

MORTGAGEE : LIBERTY BANK, a Hawaii corporation

DATED : July 19, 1979

FILED : Land Court Document No. 952844

AMOUNT : \$100,000.00

(F) AGREEMENT OF SALE

VENDOR : WAH CHAN THOM and JANNIE LUKE THOM, husband
and wife

VENDEE : SHELDON S.H. ZANE DEVELOPMENT AND REALTY
CO., INC., as General Partner of Kaaha
Partners, a Hawaii limited partnership

DATED : December 18, 1980
FILED : Land Court Document No. 1048795
AMOUNT : \$400,000.00

Reference is made to said instrument for terms, conditions,
restrictions, reservations, provisions, etc...

3. -AS TO SECOND:- (TAX KEY 2-7-18-31)

- (A) Grant in favor of Hawaiian Electric Company, Inc.,
dated November 14, 1941, filed as Document No. 61357,
granting a perpetual right and easement to build, construct
etc. pole and wire lines etc. over and across Lot 2-A-1-D.
- (B) Easement "E", running along the Westerly (side)
boundary of Lot 2-A-1-D, as shown on Map 19, as set
forth by Land Court Order No. 8710, filed November 26, 1948.
- (C) Exchange grant in favor of Kam Yuk Yee Luke, dated
March 1, 1949, filed as Document No. 108588, grant-
ing a perpetual easement for purposes of ingress and egress
and all other reasonable purposes over, across and along
Easement "E" as an appurtenance to Lots 2-A-1-M-1 and
2-A-1-C of Certificate No. 24,954.
- (D) Right of way over Easement "E" in favor of Kamesuke
Moriyara and Chiyo Moriyara, husband and wife, dated
March 3, 1949, filed as Document No. 108483.

(E) MORTGAGE

MORTGAGOR : BENJAMIN DUNG LOY KAM and ELEANOR KAM,
husband and wife

MORTGAGEE : HONOLULU FEDERAL SAVINGS AND LOAN
ASSOCIATION, a Federal savings and loan
association

DATED : December 15, 1972
FILED : Land Court Document No. 611491
AMOUNT : \$15,000.00

4. -AS TO THIRD:- (TAX KEY 2-7-18-38)

- (A) Easement "E" situate within the Southwesterly portion
of Lot 36-B, as shown on Map 19, as set forth by Land
Court Order No. 8710, filed November 26, 1948.

(B) Grant in favor of Kamesuke Morihara and Chiyo Morihara, husband and wife, dated March 3, 1949, filed as Document No. 108589, granting a perpetual easement for purposes over, across and along Easement "D" as an appurtenance to the within premises.

(C) MORTGAGE

MORTGAGOR : ALEXANDER YOUNG HA KIM and PATRICIA SMITH KIM, husband and wife

MORTGAGEE : AMERICAN SAVINGS AND LOAN ASSOCIATION, a Utah corporation

DATED : April 27, 1977

FILED : Land Court Document No. 815044

AMOUNT : \$90,000.00

PURCHASE MONEY HANDLING: A copy of the specimen sales contract and the executed escrow agreement dated January 15, 1981 have been submitted as part of registration. The escrow agreement identifies TITLE GUARANTY ESCROW SERVICES, INC., as the escrow agent. 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, 514A-40 and 514A-63 through 514A-66, Hawaii Revised Statutes.

Among other provisions the executed escrow agreement provides that a purchaser under contract of sale, upon written request, shall be entitled to a refund of all monies deposited with escrow, less a cancellation fee of \$25 imposed by the escrow agent, if any one of the following shall have occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, there shall have been a change in the building plans, subsequent to the execution of purchaser's sales contract, requiring approval of a county officer having jurisdiction over the issuance of building permits, unless such change is specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or unless a purchaser's written approval or acceptance of the specific change is obtained or ninety days have elapsed since the purchaser has accepted in writing the unit or the purchaser has first occupied the unit; or

(d) The Final Report differs in a material respect from the Preliminary Report, and the purchaser's written approval of such change shall not have been obtained; or

(e) The Final Report shall not have been issued within one (1) year from the date of issuance of the Preliminary Report and the purchaser has not waived or has not been deemed to have waived his right to a refund.

The specimen sales contract provides in part (1) that if the purchasers who have agreed to obtain mortgage loans have not secured commitments therefor within sixty (60) days after application for the same satisfactory to the Developer, the Developer may elect to terminate, at the Developer's option, the sales contract upon written notice to the purchaser and, upon such termination, all monies paid by the purchaser shall be refunded without interest, less the cost of any credit report, escrow cancellation fees, if any, and other costs actually incurred by the Developer or lending institution in processing such loan application; provided, however, that if the Developer ascertains that the purchaser has failed to qualify for the mortgage loan due to his failure to use his best efforts to obtain a mortgage loan in good faith or to do or perform all acts necessary to obtain such loan, then such factors shall constitute a default by the purchaser entitling the Developer to retain all sums paid as liquidated damages as provided in paragraph 20 of the sales contract; (2) that if the purchaser who shall not require financing has not submitted an acceptable financial statement, the Developer shall have thirty (30) days to terminate the sales contract and cause to be refunded to the purchaser the amounts already paid, without interest, less the cost of any credit report, escrow cancellation fees, if any, and other costs actually incurred in reviewing such financial statement; (3) prospective purchasers should be aware that the Developer's mortgage loans (interim renewals and extensions) used 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 the priority of lien under the sales contract or reservation agreement in favor of such mortgage loans and waive any claims which they may have against Developer for breach of the sales contract or reservation agreement in the event that said mortgage loans are foreclosed; (4) that the contract constitutes only a reservation agreement until such time as the Developer deposits in the U.S. mails a notice addressed to the purchaser stating that Developer has determined that the project can go forward, after which time the sales contract becomes binding. Prior to that time, either the Developer or the purchaser has an unconditional right to cancel the contract by written notice to the other.

If the development and construction of the Project is delayed due to matters or conditions beyond control of the Developer, the specimen sales contract reserves the right in the Developer to increase the total purchase price for the apartment after notice to the purchaser by an amount not in excess of the apartment's proportionate share (approximately based on the apartment's percentage common interest as specified in the sales contract) of the total amount of such increases in development and construction costs. Additionally, the sales contract provides that the Developer makes no warranties, express or implied, with respect to the apartments or any common element or anything installed

therein. The Developer shall assign to the purchasers any and all warranties given the Developer by the general contractor of the Project together with any guarantees against faulty material or workmanship. The purchasers shall receive direct warranties given by dealers or manufacturers on appliances installed in apartments and common elements.

PROGRAM OF FINANCING: The Developer has not yet obtained an interim construction loan or entered into a construction contract for KAPIOLANI BANYAN.

MANAGEMENT AND OPERATION: Article IV Section 2 of the proposed Bylaws states that the Board of Directors shall at all times employ a responsible corporate managing agent to manage and control the property subject at all times to direction by the Board of Directors. The Developer contemplates that State Management, Inc., 320 Ward Avenue, Suite 109, Honolulu, Hawaii 96814, will be the initial managing agent.

STATUS OF PROJECT: The Developer advises that construction of KAPIOLANI BANYAN is presently intended to commence on May 1, 1981, and is presently estimated to be completed about March 31, 1982.

The purchaser or prospective purchaser should be cognizant of the fact that this Preliminary Public Report represents information disclosed by the Developer in the required Notice of Intention submitted March 27, 1981, and information subsequently filed as of April 29, 1981.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1405 filed with the Commission on March 27, 1981.

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.


G. A. "RED" MORRIS, Chairman
REAL ESTATE COMMISSION
State of HAWAII

Distribution:

Department of Taxation
Bureau of Conveyances
Planning Department, County of Honolulu
Federal Housing Administration
Escrow Agent

REGISTRATION NO. 1405

May 5, 1981

<u>Type</u>	<u>Apartment</u>	<u>Total No.</u>	<u>Bedroom/Bathroom</u>
A	02	4	1 Br/1 Ba
B	05, 07, 09	12	2 Br/2 Ba
C	04, 06, 08, 10	16	2 Br/2 Ba
D	03	4	2 Br/2 Ba
E	01	4	2 Br/2 Ba
F	11	4	2 Br/2 Ba

Exhibit "A"

Apt.	% Common Interest	Interior Sq.Ft.	Exterior Sq.Ft.	Total	Stall Assignment
101	3.07117	1,205	220	1,425	1*, 2
102	1.69344	696	90	786	3
103	2.40738	1,039	78	1,117	20
104	2.20264	944	78	1,022	4, 5
105	2.20264	944	78	1,022	6
106	2.20264	944	78	1,022	7, 8
107	2.20264	944	78	1,022	9
108	2.20264	944	78	1,022	10, 11
109	2.20264	944	78	1,022	12
110	2.20264	944	78	1,022	13, 14
111	2.40953	998	120	1,118	15, 16
201	3.07117	1,205	220	1,425	17, 18
202	1.69344	696	90	786	19
203	2.40738	1,039	78	1,117	21
204	2.20264	944	78	1,022	22, 23
205	2.20264	944	78	1,022	24
206	2.20264	944	78	1,022	25*, 26
207	2.20264	944	78	1,022	27
208	2.20264	944	78	1,022	28, 29
209	2.20264	944	78	1,022	30
210	2.20264	944	78	1,022	31, 32
211	2.40953	998	120	1,118	33, 34
301	3.07117	1,205	220	1,425	35, 36
302	1.69344	696	90	786	37
303	2.40738	1,039	78	1,117	38, 39
304	2.20264	944	78	1,022	40, 41
305	2.20264	944	78	1,022	42
306	2.20264	944	78	1,022	43, 44
307	2.20264	944	78	1,022	45
308	2.20264	944	78	1,022	46, 47
309	2.20264	944	78	1,022	48
310	2.20264	944	78	1,022	49, 50
311	2.40953	998	120	1,118	51, 52
401	3.07117	1,205	220	1,425	53, 54
402	1.69344	696	90	786	55
403	2.40738	1,039	78	1,117	56, 57
404	2.20264	944	78	1,022	59, 60
405	2.20264	944	78	1,022	58
406	2.20264	944	78	1,022	61, 62
407	2.20264	944	78	1,022	63
408	2.20264	944	78	1,022	64, 65
409	2.20264	944	78	1,022	66, 67*
410	2.20264	944	78	1,022	68, 69
411	2.40953	998	120	1,118	70, 71

*Denotes stalls for compact cars.

Exhibit "B"