

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 BANYAN TREE PLAZA
1212 Punahou Street
Honolulu, Hawaii

REGISTRATION NO. 393

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: September 13, 1971
Expires: October 13, 1972

SPECIAL ATTENTION

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

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED JUNE 28, 1971 AND INFORMATION SUBSEQUENTLY FILED AS LATE AS SEPTEMBER 7, 1971. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514 OF THE HAWAII REVISED STATUTES.

1. THE BANYAN TREE PLAZA is a proposed leasehold condominium project consisting of two hundred thirty-eight (238) dwelling units arranged throughout a single 35-story building, with a four-level parking structure containing three hundred fourteen (314) parking stalls. (Note: An additional three hundred thirty-five (335) parking stalls called the "church parking unit" are reserved for the fee simple owner. There shall also be a commercial apartment called the "health club unit".)

Buyers will receive, through an Apartment Lease, a subleasehold interest from the lessees of the fee simple owner. Said sublease will expire October 31, 2045.

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 issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, with By-Laws of Association of Apartment Owners attached, and a copy of the approved Floor Plans) have not been filed in the office of the recording officer.
4. 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 Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, July 14, 1971, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE BANYAN TREE PLAZA

LOCATION: At the mauka-Diamond Head corner of Punahou and Beretania Streets, Honolulu, Hawaii, with an area of 92,479 square feet.

TAX KEY: 2-4-07-04 (Por.)

ZONING: A-4

DEVELOPER: Business Investment, Ltd., a Hawaii corporation. The names and residence of the principal officers of the corporation are as follows:

Colin de Silva	President	Financial Plaza of the Pacific Suite 1510 Honolulu, Hawaii 96813
Joan Claire de Silva	Secretary- Treasurer	Financial Plaza of the Pacific Suite 1510 Honolulu, Hawaii 96813

The Developer has submitted a Limited Partnership Agreement dated May 10, 1971, by and between Business Investment, Ltd., as "General Partner" and John E. Runyan, Richard E. Harris, Robert L. Rice and Kenneth O. Melby, as "Limited Partners".

ATTORNEY REPRESENTING DEVELOPER: Damon, Shigekane & Char
(Attention: Mr. C. F. Damon, Jr.) Suite 701, 333 Queen Street, Honolulu, Hawaii 96813, telephone 531-8031.

DESCRIPTION: The proposed development shall consist of a 35-story building. The first four floors will be parking structure, the fifth floor will be a recreation deck and the remaining 30 floors will contain apartment units. There will be a total of 240 apartments, made up as follows: 238 dwelling units, hereinafter referred to as the "apartment units"; one commercial apartment, consisting of 10,000 square feet, more or less, hereinafter called the "health club unit"; one parking apartment area, consisting of 335 parking stalls, hereinafter called the "church parking unit". The parking structure is rectangular in shape and the apartment tower is an "L" form structure, the long leg (11 bays) fronting Punahou Street and the short leg (5 bays) fronting Beretania Street. The entire building shall be constructed of reinforced concrete, steel, aluminium and allied building materials.

The parking structure shall provide parking facilities for a total of 649 cars, and shall be divided into two separate parts as described in Paragraph 6 hereinafter, of which 314 parking stalls are limited common elements for the apartment

units and 335 parking stalls are the church parking unit, which church parking unit is to be conveyed by a separate sublease to Lessor. Each of the respective parking areas has separate ingress and egress ramps and stair exists providing total separation of the parking users.

The short leg of the apartment tower will contain fifteen (15) four bedroom type "A" apartment units, thirty (30) three bedroom apartment units, of which fifteen (15) are type "B" apartment units and fifteen (15) are type "B-1" apartment units, and fifteen (15) one bedroom efficiency "C" type apartment units. The description and location of each apartment in the short leg of the building fronting Beretania Street are as follows:

- a. The four bedroom type "A" apartment units each occupies three and 1/3 of the five bays on the ewa end of the building portion facing Beretania Street and extends vertically on alternate floors from the sixth floor through the thirty-fourth floor. Each type "A" apartment unit contains a combination living-dining room, kitchen, foyer, four bedrooms, two and one half bathrooms and two lanais, a total of 1,920 square feet including 158 square feet of lanai area. Access to the apartment units is from the common element open corridor.
- b. The three bedroom type "B" apartment units occupy three bays on the ewa end of the portion of the building fronting Beretania Street, and extend vertically on alternate floors from the seventh floor through the thirty-fifth floor. Each type "B" apartment unit contains a combination living-dining room, kitchen, foyer, three bedrooms, two bathrooms and two lanais, a total of 1,514 square feet including 158 square feet of lanai area. Access to the apartment units is from the common elements open corridor.
- c. The three bedroom type "B-1" apartment units occupy one and 2/3 bays on the lower floor and one bay on the floor above at the Diamond Head end of the portion of the building fronting Beretania Street. The type "B-1" apartment units extend vertically from the sixth floor through the thirty-fourth floor. Each type "B-1" unit contains a combination living-dining room, kitchen, foyer, three bedrooms, two and one-half bathrooms and a lanai, a total of 1,498 square feet, including 78 square feet of lanai. The type "B-1" apartment unit has its living-dining room, kitchen, foyer, 1/2 bathroom, lanai and one bedroom on one level within one and 2/3 bays and two bedrooms and two bathrooms on the floor above occupying one bay. Entrance to the apartment units is on the living room level with immediate access to a common element open corridor.
- d. The one bedroom efficiency type "C" apartment unit is located in one bay on one level between the type "B" apartment units and the upper floor of the type "B-1" apartment units and occurs on alternate floors from the seventh floor through the thirty-fifth floor. The type "C" apartment units consist of a combination living-dining room, efficiency kitchen, bathroom, one alcove bedroom and lanai, a total of 546 square feet including 32 square feet of lanai area. Access to the apartment units is from the common element open corridor.

The long leg of the apartment tower fronting Punahou Street will contain fifty-eight (58) one bedroom apartment units of which twenty-nine (29) are type "D" apartment units and twenty-nine (29) are type "D-1" apartment units; one hundred twenty (120) two bedroom apartment units of which sixty (60) are type "E" apartment units, thirty (30) type "E-1" apartment units, and thirty (30) type "F" apartment units. The description and location of each apartment unit in the long leg of the building fronting Punahou Street are as follows:

- a. The one bedroom type "D" apartment units occupy 1-1/2 bays facing Diamond Head at the makai end of the building. The type "D" apartment unit extends from the seventh floor through the thirty-fifth floor.

Each type "D" apartment unit contains a combination living-dining room, kitchen, foyer, one bedroom, one bathroom and lanai, a total of 793 square feet including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.

- b. The one bedroom type "D-1" apartment units occupy 1-1/2 bays facing Diamond Head from the seventh floor through the thirty-fifth floor. Each type "D-1" apartment unit contains a combination living-dining room, kitchen, foyer, one bedroom, one bathroom and one lanai, for a total of 793 square feet including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.
- c. The two bedroom type "E" apartment units occupy two bays between the type "D-1" and "E-1" apartment units. The type "E" apartment units extend from the sixth floor through the thirty-fifth floor. Each type "E" apartment unit contains a combination living-dining room, kitchen, foyer, two bedrooms, two bathrooms and a lanai, a total of 1,059 square feet, including 78 square feet of lanai area. Access to the apartment units is from the common element open corridor.
- d. The two bedroom type "E-1" apartment units occupy two bays between the two type "E" apartment units. The number, type and location of rooms are identical to the type "E" apartment units as well as the access of the unit and the total square footage. The type "E-1" apartment unit is the reversed layout of the type "E" apartment unit. Access to the apartment units is from the common element open corridor.
- e. The two bedroom type "F" apartment units occupy 2-1/2 bays on the mauka end of the building portion fronting Punahou Street and extend vertically from sixth floor through the thirty-fifth floor. Each type "F" apartment unit contains a living-dining room, kitchen, foyer, two bedrooms, two bathrooms, and two lanais, a total of 1,556 square feet including 158 square feet of lanai area. Access to the apartment units is from the common element open corridor.

Included in the project are two areas which are not residential apartments. These areas are described as follows:

- a. The church parking unit for 335 cars is located on four levels of parking at the ewa end of the parking structure and is separated from the apartment parking by a masonry screen wall. Ingress to and egress from the church parking unit is along the ewa property line to Beretania Street. Such access is physically separated from the apartment parking circulation and areas.
- b. An area of 10,000 square feet, more or less, the health club unit, reserved for Lessees for a private health club (or such other commercial enterprise permissible under the Honolulu Comprehensive Zoning Code, as may be amended from time to time) located on the ground floor in the Diamond Head makai corner of the parking structure. The area measures 110 feet in a mauka-makai direction and 97 feet in a Diamond Head-ewa direction, starting at the Punahou Street property setback line. Ingress to and egress from the area will be directly from Punahou Street.

The entire building is served by a common utility core containing three high speed electric elevators, tenant storage, trash chute and mechanical and electrical equipment.

The layout and location of each apartment within the aforesaid buildings will be shown on the condominium map to be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

Parking stalls for apartment units will be allocated and assigned on the basis of one stall for each of the apartment units. After the initial allocation of 238

stalls, there will remain 76 stalls which shall be assigned by the Developer as follows:

- a. Twenty stalls will be limited common elements appurtenant to the apartment units and shall be used as guest parking for said units;
- b. Fifty-six stalls will be sold at the discretion of the Developer to purchasers of apartment units desiring additional stalls;
- c. Upon completion of construction, if there remain unsold parking stalls up to a maximum of 10 stalls, such stalls will become limited common elements appurtenant to the apartment units as additional guest parking and each apartment unit will be assessed \$15.00 per stall up to the maximum of \$150.00 per unit for all 10 stalls.

Each of the apartment units in the project will be identified by a three or four digit number with the first one or two digits indicating the floor, and the remaining two digits indicating the number of the apartment unit.

Apartment units first occur on the sixth floor with type "D", "D-1", "E", "E-1" and "F" apartment units occurring on every floor from the sixth floor through the thirty-fifth floor, except "D" and "D-1" units first occur on the seventh floor. Type "A", "B", "B-1" and "C" apartment units occur on alternate floors with type "A" and "B-1" starting on the sixth floor; namely, floors 6, 8, 10, 12, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35 and type "B" and "C" starting on the seventh floor; namely, floors 7, 9, 11, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36. The number 13 is omitted for floors and apartment unit numbering.

Numbering of the apartment units starts with 01 for the type "D" apartment unit mauka of the elevator lobby in the portion of the building fronting Punahou Street and extends to 06 for the type "F" apartment unit at the mauka end of the building. Numbering of the apartment units in the portion of building fronting Beretania Street starts with 07 for the apartment unit nearest the elevator lobby and extends to 08 for the apartment unit at the ewa end of the building.

COMMON ELEMENTS: The Common elements shall include: (a) The land above described, undivided interests in which shall be leased to all apartment purchasers; (b) All foundations, columns, girders, beams, supports, bearing walls, roofs, chases, entrances and exists of said building; (c) All yards and refuse areas; (d) All parking areas, other than the church parking unit; (e) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, cold water, refuse and telephone; (f) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

The boundary lines of each apartment within the condominium project are the interior unfinished surfaces (exclusive of paint, paper, wax, tile, enamel or other finishes) of its perimeter walls, bearing walls, floors and ceilings, exclusive of any common elements as provided in Paragraph 11 above. All doors and door frames and windows and window frames (excepting external finished surfaces facing a common element) and non-loadbearing walls within an apartment, however, are part of the apartment.

LIMITED COMMON ELEMENTS: Certain parts of the common elements called and designated as "limited common elements" will be set aside and reserved as follows for the exclusive use of the various categories of apartments as defined in Paragraph 2 hereinabove and such apartments shall have appurtenant thereto an exclusive easement for the use of such limited common elements:

- (1) For the apartment units:
 - (a) Automatic electric passenger elevators with elevator housing and appurtenant equipment, other than such as may be provided for the exclusive use of the church parking unit;

- (b) Swimming pool and pool recreation area, including toilet rooms, but excluding any swimming pool and pool recreation area in the health club unit;
 - (c) The area on the ground floor and other floors of the building which are designated as lobbies;
 - (d) Common laundry area;
 - (e) Common recreation areas;
 - (f) All entrances and driveways serving the building other than those reserved for the exclusive use of the church parking unit;
 - (g) All chutes, corridors, stairs and walkways, excluding those within the church parking unit and the health club unit;
 - (h) A minimum of 20 and a maximum of 30 parking stalls for use as guest parking, as set forth in Paragraph 9 hereinabove.
- (2) For the church parking unit:
- (a) Those entrances and driveways along the ewa property line to Beretania Street serving the church parking unit;
 - (b) That separate automatic electric passenger elevator with elevator housing and appurtenant equipment.
- (3) For the health club unit:
- (a) Any swimming pool and pool recreation area in the health club unit.

One parking space designated on said Condominium Map by the number corresponding to the number of each apartment unit shall also be a limited common element and shall be appurtenant to and for the exclusive use of such apartment unit, except where more than one parking space is so designated.

Any storage rooms on each floor shall be a limited common element and shall be reserved for the exclusive use of the apartment units on that floor.

INTEREST TO BE CONVEYED PURCHASER: The undivided interest in the common elements appertaining to each apartment and its owner for all purposes except as hereinabove set forth, including voting, expressed in terms of a percentage, hereinafter called a "common interest", is:

<u>Type of Apartment Unit</u>	<u>Percentage</u>
4 Bedroom "A"	.706443
3 Bedroom "A"	.557060
3 Bedroom "B-1"	.551172
1 Bedroom Efficiency "C"	.200895
1 Bedroom "D"	.291775
1 Bedroom "D-1"	.291775
2 Bedroom "E" and "E-1"	.389646
2 Bedroom "F"	.572512
Health Club Unit	.300000
Church Parking Unit	.300000

The aggregate of which percentages multiplied by the number of apartments of each type shall at all times equal one hundred per cent (100%).

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The building described shall at all times be used as a residential apartment building except for the church parking and the 10,000 square foot commercial area described in the Declaration.

OWNERSHIP TO TITLE: The Notice of Intention submitted to the Commission on June 28, 1971 reflects that fee title to the parcel of 92,479 square feet is vested in

Corporation of the President of the Church of Jesus Christ of Latter-Day Saints, a Utah corporation. The August 26, 1971 preliminary report of the Abstractor, Security Title Corporation, a Hawaii corporation, verifies that the title to the parcel committed to the Horizontal Property Regime is vested in that fee simple owner.

On November 1, 1970, the property in question was leased by said fee simple owner to HEALTH INDUSTRIES, INC., a Utah corporation, and ROBERT L. RICE, KENNETH O. MELBY, RICHARD E. HARRIS, and JOHN E. KUNYAN, having a mailing address at 2265 East 4800 South, Salt Lake City, Utah, as shown by copy of lease filed with the Notice of Intention. Said lease has not yet been recorded.

ENCUMBRANCES AGAINST TITLE: Said Report of Security Title Corporation lists no encumbrances against title. When recorded, said lease will be an encumbrance.

PURCHASE MONEY HANDLING: A copy of the executed escrow agreement, dated June 18, 1971, identifies Security Title Corporation, a Hawaii corporation, as "Escrow". On examination, the specimen Deposit Receipt and Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes. The language in the specimen contracts illustrates compliance with the requirements of Section 514-36 through 514-40, Hawaii Revised Statutes.

The Developer has advised the Commission that the specimen Deposit Receipt and Sales Contract shows that if less than 100 apartments have been sold after six months of signing the Sales Contract, Seller may at its option cancel this agreement, refund to Buyer all monies paid with 6% interest per annum, and be relieved and released of all further liability hereunder.

It is incumbent upon the purchaser and prospective purchaser that he reads with care the specimen Deposit Receipt and Contract and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of dwelling units and all sums from any source are placed in trust as well as the retention and disbursement of said trust funds.

MANAGEMENT AND OPERATION: The By-Laws of the Association of Apartment Owners, executed June 23, 1971, place the authority in the Board of Directors to secure the services of Manager to manage the building. The Notice of Intention indicates that the Manager has not yet been appointed.

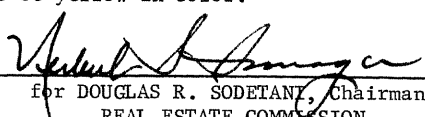
STATUS OF PROJECT: In the Notice of Intention submitted June 28, 1971, the Developer disclosed to the Commission that construction was anticipated to start in December, 1971. The Statement of Program of Financing reflects, among other objectives, that upon securing sufficient cash and loan commitments in the escrow fund to pay for the costs of the project, the Developer will demonstrate to the Commission the adequacy of the trust funds and then commence to construct the building. Developer anticipates that the building will be completed for occupancy within eighteen (18) months of groundbreaking.

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 June 28, 1971 and additional information filed as late as September 7, 1971.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 393 filed with the Commission on June 28, 1971.

The report, when reproduced, shall be a true copy of the Commission's public report. In making facsimiles the paper stock must be yellow in color.

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for DOUGLAS R. SODEYANTI, Chairman
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STATE OF HAWAII