

**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

CLARK STREET APARTMENTS  
1643 Clark Street  
Honolulu, Oahu, Hawaii

REGISTRATION NO. ~~1007~~ 1079

**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: March 2, 1979

Expires: April 2, 1980

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 SUBMITTED JANUARY 24, 1979 AND ADDITIONAL INFORMATION FILED AS OF FEBRUARY 26, 1979. 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. CLARK STREET APARTMENTS is a proposed fee simple condominium project consisting of one existing five-story apartment building of reinforced concrete construction, with 25 residential units, all of which will be sold by the developer upon and subject to the terms and provisions of a condominium conveyance document to be issued by the owner of the fee simple title. There will be parking stalls for 19 automobiles, a recreational area, and a laundry area.
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 the Preliminary Public Report.
3. Basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of Approved Floor Plans) have not been filed in the Office of the Recording Officer.
4. The Developer has advised the Commission that advertising and promotional matter required to be filed pursuant to the rules and regulations promulgated by the Commission will be submitted prior to public exposure.
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 promulgated thereunder which relate to Horizontal Property Regimes.
6. This Preliminary Public Report is made a part of the registration of CLARK STREET APARTMENTS 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 and for securing a signed copy

for the receipt for Horizontal Property Regime Public Report from each purchaser or prospective purchaser.

7. This Preliminary Public Report automatically expires thirteen (13) months from the date of issuance, March 2, 1979, unless a Supplementary or Final Public Report is published or the Commission upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: CLARK STREET APARTMENTS

LOCATION: 1643 Clark Street, Honolulu, Oahu, Hawaii. The site, comprising 8,092 square feet, is located in Makiki.

TAX MAP KEY: First Division, 2-8-12-29

ZONING: A-4

DEVELOPER: CLARK 40, a Hawaii partnership, whose business address is 333 Queen Street, Honolulu, Hawaii 96814, Telephone: 524-1224; General Partners: CAL-40 TWO, a Hawaii partnership whose business address is 1661 Kalakaua Avenue, Honolulu, Hawaii; AMITY CORPORATION, a Hawaii partnership, whose business address is 4211 Halupa Street, Honolulu, Hawaii; GLENN-GREGG, a Hawaii partnership whose business address is 302 - 22nd Avenue, Honolulu, Hawaii.

ATTORNEYS REPRESENTING DEVELOPER: Edward J. Bybee (Rother & Bybee), Suite 322, Dillingham Transportation Building, 735 Bishop Street, Honolulu, Hawaii 96813, Telephone: 537-5311.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the proposed fee simple project shall contain one existing five-story concrete apartment building. One elevator serves the parking level and each of the five residential floors. Additional access and egress is provided by stairwells, one at each end of the building. Apartments on the first floor are numbered 101 and 102 and apartments on the second, third, and fourth floors are numbered consecutively 01 through 07, with each apartment number preceded by the appropriate number to designate the particular floor upon which that apartment unit is located, except the fifth floor apartments are numbered P-1 and P-2.

The Project consists of five (5) basic types of apartments, each apartment being typical of all other apartments of the same type. Apartment types are designated as Type A units, Type B units, Type C units, Type D units and Type E units.

Type A apartment units contain a combined living-dining area, kitchen, lanai, two bedrooms, and one full bath. The total floor area of each Type A unit is 793.64 square feet, of which 654.64 square feet is living area and 139.00 square feet is lanai. There are a total of 3 Type A apartments, numbered 207, 307 and 407, each respectively.

Type B apartment units contain a combined living-dining area, kitchen, lanai, one bedroom and one full bath. The total floor area of each Type B unit is 618.14 square feet, of which 517.82 square feet is living area and 100.32 square feet lanai area. There are 3 Type B units, numbered 206, 306 and 406, each respectively.

Type C apartment units contain a combined living-dining area, kitchen, lanai, one bedroom and one full bath. The total floor area of each Type C unit is 554.58 square feet, of which 440.83 square feet is living area and 113.75 square feet lanai area. There are two type C units numbered P-1 and P-2 respectively.

Type D apartment units contain a combined living-dining area, kitchen, lanai, one bedroom and one full bath. The total square footage of each Type D unit is 558.16 square feet, of which 467.16 square feet is living area and 91.00 square feet is lanai. There are a total of 8 Type D units, numbered 101, 102, 201, 205, 301, 305, 401 and 405, each respectively.

Type E units contain a combined living, dining and sleeping area, kitchen, lanai and one full bath. The total floor area of each Type E unit is 439.28 square feet, of which 359.28 square feet is living area and 80.00 square feet lanai area. There are nine Type E units numbered 202, 203, 204, 302, 303, 304, 402, 403, and 404, each respectively.

On the top floor of the building will be located a space for laundry facilities and a space for recreation.

Each apartment shall be deemed to include all of the walls and partitions which are not loadbearing within its perimeter or party walls, door and door frames, window and window frames, the lanai air space (if any), the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures and appurtenances originally installed therein. Each apartment unit will be equipped with a hot water tank, range with cleaning oven, refrigerator, plumbing and electrical fixtures, and kitchen and bath cabinetry. Kitchens will have formica countertops.

The apartments will be numbered in the manner shown on the Condominium File Plan. All apartment square footage figures are approximate and are based on measurements to the center of party walls, to the inside of outside walls and omitting duct space. There will be parking stalls for 19 automobiles, of which 11 are for compact cars.

COMMON ELEMENTS: The common elements will include the limited common elements hereinafter described and all other portions of the land and improvements other than the apartments. They shall specifically include but not be limited to the above-described land and improvements thereon; all foundations, columns, girders, beams, supports, bearing walls, roofs, chases, entries, stairways, elevator, walkways, and entrances of the building; all yards, grounds, landscaping, mailboxes, storage rooms, laundry area, refuse facilities; all parking areas, sidewalks and driveways; all ducts, electrical equipment, wiring and other central and appurtenant installations including all utilities; the recreation area with its furniture, fixtures and equipment, and the laundry area with its furniture, fixtures and equipment; and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the project.

LIMITED COMMON ELEMENTS: The proposed Declaration reflects that certain parts of the common elements, called "limited common elements", are designated and set aside for the exclusive use of certain apartments. Such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

Parking space(s) as assigned to apartments by the Developer upon the original conveyance thereof according to Exhibit attached hereto.

All load-bearing walls within the perimeter of each apartment, the entirety of perimeter non-party walls and the interior one-half of all perimeter party walls, whether or not load-bearing, will be appurtenant to that apartment in which they are located; PROVIDED, HOWEVER, that the interior painted or decorated surfaces of each such wall will not be a limited common element; neither will the interior painted, stained, or otherwise treated party fence or wall separating the covered lanai and concrete patio areas of each respective condominium apartment unit be deemed a limited common element.

INTEREST TO BE CONVEYED TO PURCHASER: Apartment units shall have appurtenant to each the undivided interest in all common elements of the project as follows:

<u>Type Apt.</u>	<u>Sq. Ft.</u>	<u>% Common Interest In Common Elements Each Apartment</u>	<u>No. Apts.</u>	<u>Total Area Each Type Sq. Ft.</u>	<u>% Common Interest per Type - Total</u>
A	793.64	5.76635	3	2,380.92	17.29905
B	618.14	4.49121	3	1,854.42	13.47363
C	554.58	4.02942	2	1,109.16	8.05884
D	558.16	4.05542	8	4,465.28	32.44336
E	439.28	3.19168	<u>9</u>	<u>3,953.52</u>	<u>28.72512</u>
			25	13,763.30	100.00000

The common interest, proportionate share in all common profits and expenses of the project and proportionate representation for voting purposes in the Association of Apartment Owners and all other purposes shall be in the above percentage for each apartment.

PURPOSE OF BUILDING AND RESTRICTION AS TO USE: All apartments of the project may be used only for residential purposes. No apartments shall be used in connection with the carrying on of any trade or business whatsoever. The owners of the respective apartments shall have the absolute right to lease the apartment subject to the limitations, restrictions, covenants and the conditions of the proposed Declaration.

NOTE: According to the proposed House Rules submitted to the Commission, each studio and one-bedroom apartment shall have no more than two (2) permanent occupants therein, and each two-bedroom apartment shall have no more than four (4) permanent occupants therein.

OWNERSHIP OF TITLE: A Certificate of Title dated December 4, 1978, and issued by Long and Melone Escrow, Ltd., indicates that title to the land is vested in Smith Development Company, a Hawaii partnership. A copy of the Agreement of Sale dated December 1, 1978 to Clark-40, a Hawaii partnership, the Developer, has been filed with the Commission. The Developer advises that said Agreement of Sale will be satisfied simultaneously with the issuance of apartment conveyance documents and the property will be conveyed directly from the Developer to the apartment purchasers.

ENCUMBRANCES AGAINST TITLE: Said Certificate of Title indicates that said land is presently subject to the following:

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. AS TO PARCEL SECOND ONLY:  

The restrictions, reservations and covenants contained in Deed  
From: State of Hawaii, by its Board of Land and Natural  
Resources  
To: Harold C. Schnack, et al  
Dated: October 31, 1966  
Recorded in Book 5496, Page 75.
3. SECOND ADDITIONAL CHARGE AND ADDITIONAL SECURITY REAL PROPERTY MORTGAGE AND FINANCING STATEMENT  
Mortgagors: Robert Harold Gerell, also known as Robert H. Gerell, and Jolene Francine Gerell, also known as Jolene F. Garell, husband and wife, Peter Stewart Smith, also known as Peter Smith and Peter S. Smith and Barbara Jean Smith, also known as Barbara J. Smith, husband and wife, Smith Development Corp., a Hawaii corporation, and Smith Development Company, a Hawaii partnership  
Mortgagee: Amfac Financial Corp., a Hawaii corporation  
Dated: July 2, 1974  
Recorded in the Bureau of Conveyances in Book 10022, Page 7. Mortgages said premises and other land as additional security to Mortgage dated May 10, 1973, recorded in Book 9146, Page 345 and Additional Charge Mortgage dated April 17, 1974, recorded in Book 9855, Page 58, and to secure the additional amount of \$100,000.00.
4. THIRD ADDITIONAL SECURITY REAL PROPERTY MORTGAGE AND FINANCING STATEMENT  
Mortgagors: Robert Harold Gerell, also known as Robert H. Gerell, and Jolene Francine Gerell, also known as Jolene F. Gerell, husband and wife, Peter Stewart Smith, also known as Peter

Smith and Peter S. Smith, and Barbara Jean Smith, also known as Barbara J. Smith, husband and wife, Smith Development Corp., a Hawaii corporation, and Smith Development Company, a Hawaii partnership

Mortgagee: Amfac Financial Corp., a Hawaii corporation

Dated: August 6, 1974

Recorded in the Bureau of Conveyances in Book 10079, Page 554.

To Secure: \$550,000.00

Additional Charge to Mortgage recorded in Book 9146, Page 345, and Additional Charge Mortgage dated April 17, 1974, recorded in Book 9855, Page 58, and foregoing Second Additional Charge and Additional Security Real Property Mortgage and Financing Statement.

5. MORTGAGE

Mortgagor: Smith Development Company, a registered Hawaii partnership

Mortgagee: First Federal Savings and Loan Association of Hawaii

Dated: August 29, 1975

Recorded in the Bureau of Conveyances in Book 10880, Page 203.

To Secure: \$519,000.00

6. SUBORDINATION AGREEMENT

By and Between: Amfac Financial Corp. and First Federal Savings and Loan Association of Hawaii

Dated: August 29, 1975

Recorded in the Bureau of Conveyances in Book 10880, Page 213.

Subordinate Second Additional Charge and Additional Security Real Property Mortgage and Financing Statement and Third Additional Security Real Property Mortgage and Financing Statement to foregoing Mortgage.

7. AGREEMENT OF SALE

By and between: Smith Development Company, a Hawaii registered partnership as "vendor" and Clark-40, a Hawaii general partnership as "vendee"

Dated: December 1, 1978

Recorded in the Bureau of Conveyances in Book 13313, Page 697.

8. For taxes that are due and owing, reference is made to the Office of the Tax Assessor, First Division.

NOTE: The Developer advises that said mortgage mentioned above will be released prior to the recordation of the Purchaser's apartment conveyance document.

PURCHASE MONEY HANDLING: An executed Escrow Agreement, dated January 16, 1979, identifies Long and Melone Escrow, Ltd. as the Escrow Agent. Upon examination of the Escrow Agreement, it is found to be on consonance with Chapter 514A, Hawaii Revised Statutes, and particularly Section 514A-35 through Section 514A-40. Among other provisions, the Escrow Agreement provides that Escrow Agent shall refund to purchaser all of purchaser's funds, without interest, if purchaser shall request refund of his funds and any one of the following shall have occurred:

- (a) Developer has requested Escrow Agent in writing to return to purchaser the funds of purchaser then held under the Escrow Agreement by Escrow Agent; or



- (b) Developer has notified Escrow Agent of Developer's exercise of the option to rescind the sales contract pursuant to any right of rescission stated therein or otherwise available to Developer; or
- (c) Developer has notified Escrow Agent that purchaser's funds were obtained prior to the issuance of a Final Public Report for the Project and that either (i) such Final Public Report differs in any material respect from this Preliminary Public Report or (ii) there is any material change in the condominium building plans for purchaser's apartment or the common elements of the Project subsequent to the execution of the sales contract requiring approval of a county officer having jurisdiction over issuance of permits for construction of buildings, unless in either case the purchaser has given written approval or acceptance of the specific change; or
- (d) Developer has notified Escrow Agent that a Final Public Report has not been issued within one (1) year of the date of the issuance of this Preliminary Public Report and purchaser has not waived its right of refund and cancellation of obligation pursuant to Section 514A-39, Hawaii Revised Statutes.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Sales Contract since the Escrow Agreement prescribes the procedure for receiving and disbursing purchaser's funds.

Among other provisions, the specimen Sales Contract provides that the Seller makes no warranty as to any defects in the apartments, the appliances therein, and the common elements of the Project. The Buyer is to inspect the Project and understand and agree that he is buying the property sold hereby in as "as is" condition without warranty of any nature from the Seller.

MANAGEMENT OF PROJECT: The By-Laws which are incorporated in the proposed Declaration provide that the operation of the project shall be conducted for the Association under the direction of its Board of Directors by a responsible corporate managing agent. The Developer has submitted a copy of an executed

Management Agreement to the Commission, undated, with Certified Management, a division of A.R. Corporation, a Hawaii corporation, the principal place of business is 98-1238 Kaahumanu Street, Suite 404, Pearl City, Hawaii, as initial Agent.

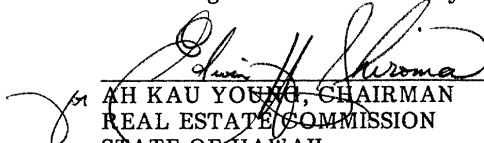
STATUS OF PROJECT: The project was constructed in 1966 and is presently operating as an apartment rental building. Except for some minor painting work the project will be sold in "as is" condition without warranties from the Developer. The project purchase is expected to close and is expected to be ready for occupancy by the purchasers on June 4, 1979.

NOTE: The existing building is a non-conforming structure as defined under Section 21-110 Revised Ordinances, meaning "any structure which was previously lawful but which does not comply with the bulk, yard, set-back or height regulations of the district in which it is located, either on the effective date of Chapter 21 Revised Ordinances, or as a result of any subsequent amendment."

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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 January 24, 1979 and information subsequently filed as of February 26, 1979.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES CONDOMINIUM PUBLIC REPORT which is made a part of REGISTRATION NO. 1097, filed with the Commission on January 24, 1979.

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.

  
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AH KAU YOUNG, CHAIRMAN  
REAL ESTATE COMMISSION  
STATE OF HAWAII

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

Registration No. 1097

March 2, 1979

EXHIBIT

SCHEDULE OF PARKING STALL ASSIGNMENTS

<u>APT. NO.</u>	<u>STALL NO.</u>
101	18 C
102	19 C
201	15 C
202	
203	
204	
205	16 C
206	17 C
207	5
301	6
302	
303	
304	
305	7
306	8
307	4
401	14 C
402	11 C
403	10 C
404	9 C
405	13 C
406	12 C
407	3
P-1	1
P-2	2

C - Denotes stalls for compact cars