

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer CP Aloha Surf, LLC
Address 1000 Sansome Street, Suite 180, San Francisco, California 94111

Project Name (\*): ALOHA SURF HOTEL
Address: 444 Kanekapolei Street, Honolulu, Hawaii 96815

Registration No. 1099 Effective date: July 1, 2005
(Converted 1981) Expiration date: April 18, 2006

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
[ ] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with

THIRD SHORT FORM

X SUPPLEMENTARY: (pink) This report updates information contained in the:
[X] Preliminary Public Report dated: April 25, 1979
[X] Final Public Report dated: November 12, 1981
[X] Supplementary Public Report dated: January 19, 1981 and March 18, 2005

And [X] Supercedes all prior public reports, except Second Supp. Public Report.
[X] Must be read together with Second Supplementary Public dated March 18, 2005
[ ] This report reactivates the public report(s) which expired on

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request. FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required and attached to this report                       Not Required – Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Summary of Changes from Second Supplementary Public Report:

1. Designation of Additional Lodging Units. The lodging units in the Project identified in Exhibit “A” to the Second Amendment To Declaration of Horizontal Property Regime of Aloha Surf Hotel; Grant of Power of Attorney; Reservation of Rights dated January 18, 2005 (“Second Amendment”), was amended to add and identify units 403, 505, 606, 707, 809, 906 and 1009 as lodging units in the Project pursuant to that certain Third Amendment To Declaration of Horizontal Property Regime of Aloha Surf Hotel dated April 7, 2005 (“Third Amendment”). The list of lodging units, designated as Exhibit “A” in the Second Amendment, was redesignated as Exhibit “C” to the Declaration in the Third Amendment.

Exhibit “B-1” of the Public Report has been amended to reflect the additional lodging units identified above.

2. Removal of Restriction on Heating Elements in Lodging Units. The prohibition against “heating elements” in lodging units set forth in Section F.2 of the Second Amendment has been omitted pursuant to that certain Fourth Amendment To Declaration of Horizontal Property Regime of Aloha Surf Hotel. Notwithstanding such omission, lodging units are strictly prohibited from having all of the components comprising a “kitchen” as set forth in Section F. of the Declaration, as amended, and the Land Use Ordinance of the City and County of Honolulu in order to avoid jeopardizing the non-conforming hotel status of the Project.
3. Escrow Officer. Page 5, Section 1. of the Public Report has been amended to reflect that the project escrow officer is Lynne Shimizu.
4. Page 6, Section II.A. and Exhibit “F”, Item 3 of the Public Report have been amended to reflect the recording information for the Third and Fourth Amendments.
5. Page 14, Section III.E. of the Public Report has been amended to reflect the date of a new title report issued by Title Guaranty of Hawaii, Inc. reflecting the Third and Fourth Amendments.
6. Registration Information. Page 19 of this Public Report has been corrected to reflect that the Project registration number is 1099 and was originally filed with the Real Estate Commission on April 25, 1979.
7. **SPECIAL NOTE REGARDING DISCLAIMER OF DEVELOPER DECLARATION.** Paragraph D. on page 21 of this Public Report sets forth a declaration by the developer that the project is in compliance with all county zoning and building ordinances and codes, pursuant to Section 514A-1.6 of the Hawaii Revised Statutes, enacted pursuant to Act 251 of the Session Laws of Hawaii in 2000. The declaration is printed on the approved form of public report issued by the Real Estate Commission. Following issuance of the Second Supplementary Public Report for the project on March 18, 2005, the developer was advised on behalf of the Real Estate Commission that the declaration should not be altered or omitted.

The developer believes it is not required to make the subject declaration as the project was converted to a condominium and a final public report obtained for the project in 1981, prior to enactment of Act 251. Accordingly, the developer has expressly disclaimed the declaration pursuant to Act 251 printed in Paragraph D. on page 21 of this Public Report. Developer directs buyers’ attention to the matters disclosed more fully in the Second Supplementary Public Report for the project, including

the matters summarized in Paragraph C commencing on page 20 thereof, including certain violations known to the developer.

**THE ABOVE-DESCRIBED CHANGES COVER SOME, BUT NOT ALL, OF THE CHANGES TO THE PRIOR PUBLIC REPORTS ISSUED FOR THE PROJECT. COPIES OF THE PRIOR PUBLIC REPORTS FOR THE PROJECT ARE AVAILABLE FROM THE REAL ESTATE COMMISSION AND PROSPECTIVE PURCHASERS ARE ENCOURAGED TO REVIEW THE PRIOR REPORTS AND THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS REPORT FOR FURTHER INFORMATION WITH REGARD TO CHANGES TO THE PROJECT.**

**SPECIAL ATTENTION**

THIS REPORT DOES NOT CONSTITUTE APPROVAL OF THE PROJECT BY THE REAL ESTATE COMMISSION, OR ANY OTHER GOVERNMENT AGENCY, NOR DOES IT ENSURE THAT ALL APPLICABLE COUNTY CODES, ORDINANCES AND SUBDIVISION REQUIREMENTS HAVE BEEN COMPLIED WITH.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: CP Aloha Surf, LLC, a Hawaii limited liability company
Name\*
1000 Sansome Street, Suite 180
Business Address
San Francisco, California 94111
Phone: (415) 273-2900 (Business)

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

CP Investment Fund, L.P., a Delaware limited partnership, Its Manager and Sole Member, of which Carmel Partners GP, LLC, a Delaware limited liability company, is the general partner and Ron Zeff is the Managing Member. In addition to Mr. Zeff, the individual authorized signatories for Developer are John R. Williams, Christopher J. Beda, Nolan D. Zail and Donald D. Campbell

Real Estate Broker\*: Coldwell Banker Pacific Properties, Ltd.
Name
1314 South King Street, 2nd Floor
Business Address
Honolulu, Hawaii 96814
(Attn: Kai McDurmin)
Phone: (808) 596-0456 (Business)

Escrow: Title Guaranty Escrow Services, Inc.
Name
235 Queen Street, First Floor
Business Address
Honolulu, Hawaii 96813
(Attn: Lynne Shimizu)
Phone: (808) 521-0211 (Business)

General Contractor\*: N/A
Name
Business Address
Phone: (Business)

Condominium Managing Agent\*: Aqua Hotels & Resorts, LLC
Name
1700 Ala Moana Boulevard
Business Address
Honolulu, Hawaii 96815
(Attn: Michael Paulin)
Phone: (808) 922-9300 (Business)

Attorney for Developer: Imanaka Kudo and Fujimoto
Name
745 Fort Street, 17th Floor
Business Address
Honolulu, Hawaii 96813
(Attn: Mitchell A. Imanaka, Paula W. Chong)
Phone: (808) 521-9500 (Business)

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominiums Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 1091509

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

1. First Amendment to The Declaration of Horizontal Property Regime of the Aloha Surf Hotel And the By-Laws of the Association of Apartment Owners of The Aloha Surf Hotel dated August 1, 1990, filed as Land Court Document No. 1817792.
2. Second Amendment to Declaration of Horizontal Property Regime of Aloha Surf Hotel; Grant of Power of Attorney; Reservation of Rights dated January 18, 2005, filed as Land Court Document No. 3241045.
3. Third Amendment to Declaration of Horizontal Property Regime of Aloha Surf Hotel dated April 7, 2005, filed as Land Court Document No. 3251782.
4. Fourth Amendment to Declaration of Horizontal Property Regime of Aloha Surf Hotel dated May 13, 2005, filed as Land Court Document No. 3270738.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 468

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: N/A

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 3241046

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]: The Amended and Restated Bylaws of The Association of Apartment Owners of Aloha Surf Hotel referred to above, restates the By-Laws of the Association of Apartment Owners of Aloha Surf Hotel dated September 28, 1981 attached to the Original Declaration as Exhibit "B".

2. **Limited Common Elements:** Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit “E”.

as follows:

3. **Common Interest:** Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the “common interest.” It is used to determine each apartment’s share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit “B”

as follows:

- E. **Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit “F” describes the encumbrances against title contained in the title report dated May 19, 2005 and issued by Title Guaranty of Hawaii, Inc..

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other Reserve Study, a summary of which is attached as Exhibit "L" and a copy of which has been or will be given to buyer for examination. Property related reports, copies or summaries of which are attached as Exhibit "M".

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)  
 Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)  
 Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 1099 originally filed with the Real Estate Commission on April 25, 1979.

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YELLOW paper stock

WHITE paper stock

PINK paper stock

D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)\*

**\*THE DEVELOPER EXPRESSLY DISCLAIMS THE FOREGOING DECLARATION, WHICH APPEARS ON THE COMMISSION'S PREPRINTED PUBLIC REPORT FORM. BUYERS ARE REFERRED TO PAGE 2, PARAGRAPH 7, FOR FURTHER INFORMATION.**

E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

CP ALOHA SURF, LLC,  
a Hawaii limited liability company

By CP INVESTMENT FUND, L.P.,  
a Delaware limited partnership  
Its Managing Member

By CARMEL PARTNERS GP, LLC,  
a Delaware limited liability company  
Its General Partner

By   
\_\_\_\_\_  
Ron Zeff  
Its Managing Member

Date: July 1, 2005

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

**\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.**



**EXHIBIT "B-1"**  
**LODGING UNITS**

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**EXHIBIT "F"**

**ENCUMBRANCES AGAINST TITLE**

1. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Deed dated July 6, 1927, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 13321.

The foregoing includes, but is not limited to, matters relating to the following:

"That at no time hereafter will it or its successors or assigns, erect or allow to be erected upon said Lots twelve (12) and/or thirteen (13), or any part thereof, any building or any part thereof, except a boundary fence or wall not more than three (3) feet in height within ten (10) feet of any road, street or boulevard adjoining said Lots twelve (12) and/or thirteen (13)."

2. Master Plan setback line, as shown on Map 25, as set forth by Land Court Order No. 26774, filed February 14, 1967.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Horizontal Property Regime for the "Aloha Surf Hotel" Condominium Project and By-Laws dated September 28, 1981, recorded in said Office as Land Court Document No. 1091509, and shown on Condominium Map No. 468.

Said Declaration was amended by instruments dated August 1, 1990, filed as Land Court Document No. 1817792, \*dated March 29, 1991, recorded as Land Court Document No. 1817793, \* dated August 29, 2001, recorded as Land Court Document No. 2740025, dated January 18, 2005, recorded as Land Court Document No. 3241045, dated April 7, 2005, recorded as Land Court Document No. 3251782, and dated May 13, 2005, recorded as Land Court Document No. 3270738.

\*Note: These amendments are to the original By-Laws for the Project, attached as Exhibit "B" to the Original Declaration, which have been superseded by the Amended and Restated Bylaws referenced as Item 14 below.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Supplemental Declaration of Covenants, Conditions and Restrictions for Aloha Surf Hotel dated April 20, 1982, recorded in said Office as Land Court Document No. 1116610.

The foregoing includes, but is not limited to, matters relating to time share.

5. -AS TO APARTMENT NOS. 200 THROUGH 217, 219, 300 THROUGH 319, 400 THROUGH 413, 500 THROUGH 513, 600 THROUGH 613, 700, 701, 705 THROUGH 712, 800, 801, 803 THROUGH 807, 810 THROUGH 813, 900, 901, 904 THROUGH 907, 909, 911 THROUGH 913, 1000 THROUGH 1010, 1012, 1013, 1100 THROUGH 1112, 1200 THROUGH 1204, 1206 THROUGH 1208, 1211, 1212, 1400 THROUGH 1403, 1405, 1406, 1409, 1412, 1500 THROUGH 1504, 1506 THROUGH 1508, 1511, 1512, PH-B, PH-D, PH-E, PH-G, PH-H, PH-I, PH-J, C-1 THROUGH C-9, HC-1 AND 40 PARKING SPACES ONLY:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated February 13, 1984, recorded in said Office as Land Court Document No. 1219581.

6. -AS TO APARTMENT NOS. 702, 703, 802, 809, 903, 1011, 1205, 1210, 1407, 1413, 1513 AND PH-A ONLY:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated December 11, 1985, recorded in said Office as Land Court Document No. 1340493.

7. –AS TO APARTMENT NOS. 713, 808, 902, 908, 1113, 1209, 1213, 1404, 1408, 1505, 1510 AND PH-F ONLY:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated September 5, 1986, recorded in said Office as Land Court Document No 1406264.

8. –AS TO APARTMENT 218:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated November 23, 1981, recorded in said Office as Land Court Document No. 1101659.

9. –AS TO APARTMENT 704:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated February 18, 1983, recorded in said Office as Land Court Document No. 1165803.

10. –AS TO APARTMENT 1509:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated November 26, 1982, recorded in said Office as Land Court Document No. 1141896.

11. –AS TO APARTMENT PH-C:-

The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated November 1, 1982, recorded in said Office as Land Court Document No. 1139698.

12. The following as shown on the survey map prepared by George A. Sumida, Licensed Professional Land Surveyor, No. 4330, dated September 27, 2004, revised October 14, 2004:

- a. The concrete ramp in TMK 2-6-021-013 crosses the northwesterly boundary line and encroaches into subject property 0.0 feet to 0.15 feet for approximately 14 feet.
- b. The 6- inch tile wall in TMK 2-6-021-030 crosses the northeasterly boundary line and encroaches into subject property 0.2 feet for approximately 8 feet.
- c. The two concrete overhangs on the subject property cross the southeasterly boundary line and each encroaches 6 feet into Kanekapolei Street for approximately 11 feet.

13. Any unrecorded leases and matters arising from or affecting the same.

14. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Amended and Restated Bylaws of Aloha Surf Hotel dated January 18, 2005, recorded in said Office as Land Court Document No. 3241046.