

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
DIAMOND HEAD BEACH VILLAS
219 Kaalawai Place and
218 Kaimanawai Place
Honolulu, Hawaii

REGISTRATION NO. 1319 (CONVERSION)

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 19, 1980

Expires: October 19, 1981

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 MAY 23, 1980 AND INFORMATION SUBSEQUENTLY FILED AS OF SEPTEMBER 2, 1980. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES.

1. The DIAMOND HEAD BEACH VILLAS is a fee simple condominium conversion project of 9 units consisting of 7 one-story dwelling units and 2 two-story dwelling units.
2. The Developer of the project has submitted to the Commission for examination all the documents deemed necessary for the registration of this condominium project and the issuance of the Preliminary Public Report.

3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners) were executed on May 1, 1980 and filed in the Bureau of Conveyances, State of Hawaii in Book 14712, Page 84. A copy of the floor plans and elevations has been filed as Condominium Map No. 731 in said Bureau. Said Declaration is being amended which amendment has not yet been filed in the Bureau as aforesaid.
4. No advertising or promotional matter has been filed 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, and the Condominium Rules and Regulations relating to Horizontal Property Regimes.
6. This Preliminary Public Report (yellow paper stock) is made a part of the registration of the DIAMOND HEAD BEACH VILLAS condominium project. The Developer is responsible for placing a true copy of this Preliminary Public Report (yellow paper stock) along with a copy of the Disclosure Statement in the hands of all purchasers and prospective purchasers. The Developer is also responsible for securing from each purchaser or prospective purchaser a signed receipt therefor.
7. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, September 19, 1980, 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: DIAMOND HEAD BEACH VILLAS.

LOCATION: The 56,476 square feet of property to be committed to the regime as a fee simple condominium project is situated at 219 Kaalawai Place and 218 Kaimanawai Place, Honolulu, Hawaii.

TAX KEY: First Division 3-1-39-1, 3-1-40-23.

ZONING: R-4. There exists a nonconforming hotel-daily rentals use.

DEVELOPER: BYRLE LERNER, 219 Kaalawai Place, Honolulu, Hawaii, Telephone 732-6114 and SANTANGELO INVESTORS, a limited partnership, Stephen Frederick Santangelo, general partner, 3221 Waiialae Avenue, Suite 300, Honolulu, Hawaii, Telephone 732-0707.

ATTORNEY REPRESENTING DEVELOPER: Hiroshi Sakai, Attorney at Law, A Law Corporation, Suite 602, 810 Richards Street, Honolulu, Hawaii 96813, Telephone No. (808) 531-4171 and Michael F. O'Connor,

Suite 1010, Amfac Building, 700 Bishop Street, Honolulu, Hawaii 96813, Telephone No. (808) 537-5381.

DESCRIPTION: The project consists of 9 units consisting of 7 one-story dwelling units and 2 two-story dwelling units. The description of the individual units are as follows:

A. Unit 218. One freehold estate consisting of a two story dwelling constructed principally of hollow tile construction with a wood shingle roof, which unit consists of a ground floor basement of 1,345 square feet and carport of 901 square feet and a two bedroom second floor of 3,212 square feet and the sole and exclusive right to use the land adjacent to it.

B. Unit 218-A. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a pitch and gravel roof, which unit consists of a living room, dining room, kitchen, bathroom and one bedroom of 737 square feet, an appurtenant lanai of 400 square feet and an additional area of 58 square feet.

C. Unit 218-B. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 412 square feet and an additional area of 154 square feet.

D. Unit 218-C. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 530 square feet and an additional area of 188 square feet.

E. Unit 219-1. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 421 and 405 square feet and an additional area of 137 square feet.

F. Unit 219-2. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 412 square feet and an additional area of 154 square feet.

G. Unit 219-3. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 412 square feet and an additional area of 154 square feet.

H. Unit 219-4. One freehold estate consisting of a one story dwelling without a basement constructed principally of hollow tile construction with a roof, which unit consists of a living room, dining room, kitchen, bathroom and two bedrooms of 937 square feet, an appurtenant lanai of 412 square feet and an additional area of 159 square feet.

Units 218-A, 218-B, 218-C, 219-1, 219-2, 219-3 and 219-4 shall include the entire structure, their respective lanais and other areas. Units 218 and 219-5 shall include their entire structure and the land adjacent to them respectively.

COMMON ELEMENTS: The common elements include:

- a. The land in fee simple.
- b. Any installation of services such as power, light, gas, sewer lines, water lines, telephone, radio and television, signal distribution and like utilities.
- c. Any parts of the project existing for the common use and are necessary for the maintenance and safety of the project.

LIMITED COMMON ELEMENTS: The existing seven parking stalls located in the two garages in the parking area leading into Kaalawai Place are for the use of the seven one story units. All seven parking stalls are temporarily assigned to Unit #219-5 for subsequent re-assignment to the seven individual one story units at the discretion of the developer and without prior consent of the seven owners.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto the undivided interest in the common elements and the same shall be determinative for all purposes including voting and the amount of maintenance required to be paid by each unit owner as set forth hereafter:

<u>Unit Number</u>	<u>Percentage Interest</u>
218	16.61
218-A	8.84
218-B	11.23
218-C	11.23
219-1	11.23
219-2	11.23
219-3	11.23
219-4	11.23
219-5	7.17

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The units may be occupied or used for apartment, transient vacation rental or dwelling use by the respective owners thereof, their tenants, families, domestic servants and social guests subject to such limitations as may be contained in the Declaration, By-Laws and House Rules.

The proposed House Rules provide in part that no livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any

part of the project.

OWNERSHIP OF TITLE: The Developer stated above is the owner of the land by Deed dated November 19, 1979, recorded in the Bureau of Conveyances, State of Hawaii, in Book 14233, Page 1. A Preliminary Report issued by Title Guaranty of Hawaii, Incorporated on April 28, 1980, confirms said ownership.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Title Report dated April 28, 1980 also reflects the following encumbrances against the property:

1. For real property taxes reference is hereby made to the Office of the Tax Assessor, First Taxation Division.

2. As to Parcel First only:

(A) An easement for ingress and egress over, across and along a portion of the land.

(B) As to the undivided interest in and to 20-foot right-of-way: A grant in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company, dated October 5, 1951, recorded in Liber 2512 at Page 326; granting a perpetual right and easement to build, construct, reconstruct, rebuilt, repair, maintain and operate an underground power line, etc., through and under said 20-foot right-of-way.

3. As to Parcel Second (A) only: A grant in favor of Hawaiian Electric Company, Inc., dated January 11, 1941, recorded in Liber 1617 at Page 102; granting a perpetual easement over said Parcel Second (A).

4. Any and all existing Leases or Subleases.

5. Mortgage, Security Agreement and Financing Statement made by Santangelo Investors, a Hawaii limited partnership, and Byrle Lerner, husband of Mary Jane Lerner, as Mortgagor, in favor of GECC Financial Corporation, a Hawaii corporation, as Mortgagee, dated November 19, 1979, recorded in said Bureau in Liber 14233, Page 10.

6. Second Mortgage made by Byrle Lerner, husband of Mary Jane Lerner, and Santangelo Investors, a Hawaii partnership, as Mortgagor, in favor of Daito Pacific Enterprises, Inc., a Hawaii corporation, as Mortgagee, dated November 26, 1979, recorded in said Bureau in Liber 14233, Page 27. Said Mortgage was amended by instrument dated November 26, 1979 and recorded in said Bureau in Liber 14279, Page 450.

7. Assignment of Lessor's interest under Lease as Security - Security Agreement dated November 19, 1979, recorded in Liber 14233 at Page 45, Santangelo Investors, a Hawaii limited partnership, and Byrle Lerner, husband of Mary Jane Lerner, assigns to GECC Financial Corporation, a Hawaii corporation, all right, title and interest in and to the Lease, and any other lease or leases, or Sublease or Subleases covering all or any portion of the premises

described in Exhibit "A" of the Declaration of Horizontal Property Regime incorporated herein by reference, together with all proceeds, rental and income due and to become due under said Lease, as additional security to that certain Mortgage, Security Agreement and Financing Statement recorded in Liber 14233 at Page 10.

8. Mortgage, Security Agreement and Financing Statement made by Santangelo Investors, a Hawaii limited partnership, and Byrle J. Lerner, husband of Mary Jane Lerner, as Mortgagor, in favor of A. William Barlow, as Mortgagee, dated November 26, 1979, recorded in said Bureau in Liber 14302, Page 781.

9. The restrictive covenants and conditions set forth in that certain Declaration dated January 18, 1980 and recorded in said Bureau in Liber 14429 at Page 421.

10. The Declaration of Horizontal Property Regime and By-Laws dated May 1, 1980, recorded in the Bureau of Conveyances, State of Hawaii, in Liber 14712, Page 84, including Condominium Map No. 731.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated May 1, 1980 identifies Title Guaranty Escrow Services, Inc. as Escrow Agent. The purchasers' funds shall be placed with the Escrow Agent pending the closing of such sale. There will either be a partial release from the existing mortgage encumbrances at the time of each such closing or a partial release provision provided in the existing mortgages so that units will be conveyed free and clear.

The contract should be read with care. Among other things it provides that:

1. The units and the common elements are being sold on an "as is" refurbished basis. Since the building is already in existence, a buyer is requested to examine the units and premises.

2. If the zoning variance and permits are not granted for the restoration and refurbishing of the units, then the contract will be null and void.

The Developer by document dated September 2, 1980 filed with the Real Estate Commission provides that funds from prospective purchasers will not be used in the development of the property.

ALTERATION OF UNITS IN PROJECT: Construction, restoration, or replacement of individual units in the project may be undertaken by the Declarant or any unit owner without the approval of the Association or other unit owners except that no one story unit owner can increase the total square footage of his unit or alter the location of his unit. The Developer has reserved the right to individually or collectively remove Units 218 and 219-5 completely and replace the same with other units as is permitted under the ordinances and laws of the City and County of Honolulu and to reallocate the percentage interest in the common elements for such units.

NOTE: The present zoning does not permit hotel and transient vacation rentals. The Developer has advised the Real Estate Commission that the building has been used for hotel use prior to the effective date of the zoning and is therefore a permitted nonconforming use. The prospective purchasers should be aware that in the event of destruction or substantial modification to the building, that said permitted nonconforming use i.e. hotel use etc., and reconstruction of the building, may not be permitted thereafter. Each prospective purchaser should review the provisions contained in the City and County of Honolulu's ordinances relating to nonconforming uses.

COMPLIANCE WITH ORDINANCES, ETC.: The existing buildings being converted to the condominium status was in compliance with all ordinances, codes, rules, regulations, or other requirements in force at the time of its construction and no variance was granted from the same at the time of its construction or from any current ordinance, code, rule, regulation or other requirement save and except an application has been made with the Department of Land Utilization of the City and County of Honolulu for a Shoreline Management Area Use Permit, Certificate of Appropriateness for the Diamond Head Historic, Cultural and Scenic District and a zoning variance to restore and refurbish the seven (7) one-story units. Any existing notice of violations will be removed by the granting of the aforesaid permit, certificate and zoning variance.

MANAGEMENT AND OPERATIONS: The Developer indicates that it has entered into a Management Contract appointing Hawaiian Hospitality, Inc. as its initial management agent on May 1, 1980.

STATUS OF PROJECT: The Developer advises the Real Estate Commission that the buildings were completed sometime in 1952 and the seven (7) one-story dwelling units are in the process of being refurbished at the present time and has been temporarily held up pending the issuance of the permit, certificate and zoning variance.

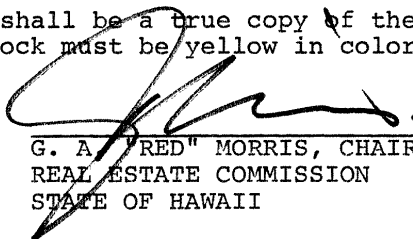
The City and County of Honolulu verified that the buildings as originally constructed were in compliance with past ordinances, rules and regulations, however, a permit, certificate and zoning variance is required in order that the refurbishing of the seven (7) one-story dwelling units can be accomplished.

The Developer has advised that an allegation has been made against them that six (6) structures were renovated without building permits. The Developer has made application to the City and County of Honolulu, requesting a Shoreline Management Permit and Variance, both of which are necessary before the required building permits will issue. The Developer has advised the Real Estate Commission, that if said Shoreline Management Permit and Variance are not granted, that the project will be cancelled.

The purchaser or prospective purchaser shall be cognizant of the fact that this public report represents information disclosed by the Developer in the required Notice of Intention submitted May 23, 1980.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1319 filed with the Commission on May 23, 1980 and subsequently filed on September 2, 1980.

This report when reproduced shall be a true copy of the Commission's Public Report. The paper stock 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, CITY AND COUNTY OF HONOLULU
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

REGISTRATION NO. 1319

September 19, 1980