

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS

STATE OF HAWAII  
1010 RICHARDS STREET  
P. O. BOX 3469  
HONOLULU, HAWAII 96801

## FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

ON

DIAMOND HEAD BEACH HOTEL  
2947 Kalakaua Avenue  
Honolulu, Hawaii

REGISTRATION NO. 1338

### **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 until

- (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 28, 1983  
Expires: October 28, 1984

#### SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that the 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 OCTOBER 31, 1980, AND ADDITIONAL INFORMATION FILED AS OF SEPTEMBER 26, 1983. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report of November 21, 1980 and Supplementary Public Report of December 31, 1981, on DIAMOND HEAD BEACH HOTEL, Registration No. 1338, the Developer reports that certain material changes have been made in the project.

2. The Developer has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Final Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime and the Bylaws of the Association of Apartment Owners have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1109599 together with Condominium Map No. 472, as amended by First Amendment to Declaration of Horizontal Property Regime and Condominium Map filed as Document No. 1191566.
4. No advertising and promotional materials have 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 514A, Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. This Final Public Report automatically expires thirteen (13) months after date of issuance September 28, 1983, unless a further Supplementary Public Report issues, or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. This Final Public Report (white paper stock) amends the Preliminary Public Report (yellow paper stock), and Supplementary Public Report (pink paper stock) becoming a part of the DIAMOND HEAD BEACH HOTEL registration. The Developer is responsible for placing a true copy of this Final Public Report in the hands of all purchasers and prospective purchasers, along with a copy of the Preliminary and Supplementary Public Report and the amended Disclosure Statement. The Developer is responsible for securing from each purchaser or prospective purchaser a signed receipt therefor.

The information in the Preliminary and Supplementary Public Reports of November 21, 1980 and December 31, 1981 under the topical headings ZONING, DESCRIPTION OF PROJECT, COMMON ELEMENTS, LIMITED COMMON ELEMENTS, PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED, PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE, ENCUMBRANCES, PURCHASE MONEY HANDLING, MANAGEMENT AND OPERATION AND STATUS OF PROJECT has been changed. The Developer reports that no other information in the Preliminary and Supplementary Public Reports has changed.

ZONING:

The last sentence of the information on zoning in the Supplementary Public Report is changed as follows: If a

kitchen is unlawfully installed in a Type H apartment, the City and County of Honolulu could bring action immediately against the Apartment Owner of the Apartment in which the kitchen is installed; if the kitchen were maintained for a period of one year, then the building might lose its status as a nonconforming structure and use and the City and County of Honolulu could bring action against all the Apartment Owners.

DESCRIPTION OF PROJECT:

Apartment R-2 has been changed from a one bedroom apartment to a two bedroom apartment and the laundry room has been eliminated from the roof level. The designation of certain apartment types has also been changed. A description of the building and the apartments is contained in the revised Exhibit "A" attached hereto.

COMMON ELEMENTS:

The Project does not contain a swimming pool. The description of the basement has been changed as shown on Exhibit "A."

LIMITED COMMON ELEMENTS:

A storage room, trash room and laundry room located in the basement of the Project have been added as limited common elements appurtenant to and for the exclusive use of the Front Desk Apartment.

PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED:

Exhibit "A" has been further revised to add the schedule of monthly lease rents and the revised designation of certain apartment types.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE:

Subparagraph (c) Time Sharing is deleted from the Supplementary Public Report and the following substituted therefor:

"(c) No Time Sharing. Time share units and time share plans as defined in Section 514E-9, Hawaii Revised Statutes, as amended, shall be prohibited in the Project.

ENCUMBRANCES:

A Preliminary Title Report dated August 12, 1983 issued by Title Guaranty of Hawaii, Inc. states that title to the property is subject to the following encumbrances:

(i) Real Property Taxes, have been fully paid up to and including June 30, 1983.

(ii) Location of the seaward boundary in accordance with the Laws of the State of Hawaii and shore-line setback line in accordance with County regulation and/or ordinance

(iii) Terms of the Lease dated October 5, 1967 filed as Land Court Document No. 435521, which Lease was assigned to Developer by Assignment of Lease dated September 8, 1981 filed as Land Court Document No. 1088210

(iv) Declaration of Horizontal Property Regime and Bylaws dated February 24, 1982 filed as Land Court Document No. 1109599 together with Condominium Map No. 472, as amended by First Amendment to Declaration of Horizontal Property Regime and Condominium Map dated September 1, 1983 filed as Land Court Document No. 1191566.

(v) Mortgage, Security Agreement and Financing Statement dated June 24, 1982 in favor of Commonwealth Trading Bank of Australia filed as Land Court Document No. 1122149 and recorded in Liber 16438, at Page 374.

(vi) Additional Charge Mortgage and Amendment of Mortgage dated June 30, 1983 in favor of Commonwealth Trading Bank of Australia filed as Land Court Document No. 1179261 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17171 at Page 339.

Developer advises the Commission that the Mortgage and Additional Charge Mortgage will be partially released as to any apartment prior to issuance of the Apartment Lease.

(vii) Civil No. 73286 filed September 13, 1982 in the First Circuit, State of Hawaii, by Media Five Limited, dba Media Five Architects, Plaintiff, vs. Hawaiian Beach Investment Corp., et al., Defendants, to recover amounts claimed for services performed at the project.

(viii) Notice of Application for Mechanic's and Materialman's Lien (M.L. 3912) filed by Media Five Limited, dba Media Five Architects, vs. Hawaiian Beach Investment Corp., et al., to recover amounts claimed for services performed at the project.

PURCHASE MONEY HANDLING:

A copy of a revised specimen Deposit Receipt and Sales Contracts (the "Sales Contract") and a new executed Escrow Agreement have been submitted as part of the registration. The Escrow Agreement dated December 28, 1982 identifies First Hawaiian Bank as "Escrow". Upon examination, the specimen Sales Contract and new Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, and particularly with Sections 514A-37, 39, 40, 63 through 66. A prospective purchaser should carefully examine the form of Sales Contract and the Escrow Agreement to determine the time for and the amount of the installment

payments on the purchase price and his obligations to pay prorations. The second paragraph under PURCHASE MONEY HANDLING in the Preliminary Public Report is revised to read as follows:

The Sales Contract among other things, contains acknowledgments by each Buyer that the Buyer acknowledges and agrees that the Seller has not made and will not be legally obligated for any express or implied warranties with respect to Buyer's apartment, the common elements or anything installed therein except that the Seller will cooperate with the Buyer in using its best effort to require the General Contractor of the project to perform under a one (1) year warranty from date of substantial completion of refurbishment for faulty material or workmanship or both.

The balance of the information under PURCHASE MONEY HANDLING remains unchanged.

MANAGEMENT AND OPERATION:

Developer has submitted to the Commission the Property Management Contract dated December 28, 1982 naming Colony Resorts, Inc. as the initial Managing Agent and the Hotel Management Contract dated January 15, 1982 naming Colony Resorts, Inc. as the hotel manager. Colony Resorts, Inc. is a Delaware corporation qualified to do business in Hawaii, whose principal place of business and post office address is 7833 Haskell Avenue, Van Nuys, California.

STATUS OF PROJECT:

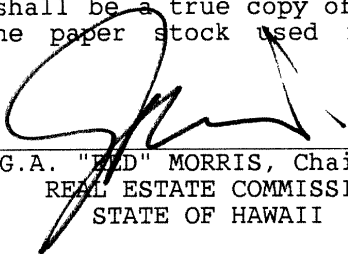
The Developer has advised the Commission that the building was completed in February, 1969. A verified statement from the City and County of Honolulu, Building Department, confirms that the structure met all code requirements at the time of construction and no variances or specific permits were granted to allow deviations from any applicable codes; the few deficiencies referred to in the Preliminary Public Report have been corrected. A supplementary letter was received from the Building Department stating that the top four stories of the building encroached into the building setback with projections ranging from six to 30 inches, but advising the commission that the Office of Corporation Counsel had opined that the City and County would be estopped from requiring this encroachment to be removed and that the building qualifies as a nonconforming structure under the Comprehensive Zoning Code. The Developer advises the Commission that it has received a Certificate of Appropriateness under the Diamond Head Historic Cultural and Scenic District and refurbishment of the Project has been completed.

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A purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted October 31, 1980, and additional information filed as of September 26, 1983.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1338 filed with the Commission on October 31, 1980.

The report when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be white.



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G.A. "RED" MORRIS, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

DIRECTOR OF FINANCE  
BUREAU OF CONVEYANCES  
DEPARTMENT OF LAND UTILIZATION  
CITY AND COUNTY OF HONOLULU  
ESCROW AGENT  
FEDERAL HOUSING ADMINISTRATION

REGISTRATION NO. 1338  
DATE: September 28, 1983

Description of Building. The Project consists of one 15-story building plus basement. The floors are designated basement, ground, second through twelfth, penthouse, roof and fifteenth. The building progressively narrows from the ground floor through the top floor. The basement contains a ramp up to the ground floor, three stairways, elevator, a transformer room, electrical room, storage room, trash room, laundry room, driveway and twenty-two parking stalls. The ground floor contains: a ramp down to the basement; two stairways, an elevator and an entry walkway from the front entry to the rear of the building; six apartments including the front desk apartment, a recreation deck and steps leading from the recreation deck. The second through twelfth and the penthouse floors each contains two stairways, an elevator, a balcony walkway, four apartments on even numbered floors and five apartments on odd numbered floors and penthouse floor. The roof level contains two stairways, a balcony walkway and two apartments. The fifteenth floor contains one stairway, an elevator machinery room and mechanical area. The Project contains sixty-two apartments including thirty residential units with kitchens, thirty-one lodging units without kitchens and one front desk unit. Should the descriptions and the divisions set forth in this Declaration conflict with the depictions and the divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map is intended to show only the layout, location, apartment numbers and dimensions of the apartments, elevations and the numbers of parking stalls and is not intended and shall not be deemed to contain or

EXHIBIT "A"

make any other representation or warranty. The building is constructed primarily of reinforced concrete.

#### DESCRIPTION OF APARTMENTS

##### LOCATION:

The Project contains sixty-two apartments. Six apartments are located on the ground floor, four apartments are located on each of the even numbered floors on the second through twelfth floors, and five apartments are located on each of the odd numbered floors on the third through eleventh floors and the penthouse floor. Two apartments are located on the roof level. The location of each apartment in the Project may be determined by reference to its number. The first digit in a three-digit apartment number and the first two digits in a four-digit apartment number indicate the floor on which the apartment is located. Penthouse apartments are preceded by the letters "PH" and roof apartments by the letter "R". The last two digits in each number indicate the position of the apartment on its floor, "01" being at the makai end of the building and "05" at the mauka end. In the case of rooftop apartments "R1" is at the makai side and "R2" at the mauka side.

##### MODEL TYPES:

Each apartment in the Project will be one of nine types. Units of the same type on different floors differ in size because the building progressively narrows and lanais are differently arranged. The size differences are listed on the schedule which forms part of this Exhibit "B". Each apartment has a lanai. The types are described as follows:

1. Type H. There are thirty-one Type H apartments which are lodging units, without kitchens and include a hotel room with bathroom and vanity area; Type H apartments on the ground floor include a dressing area.

2. Type AS. There are four Type AS apartments which are studio apartments and include a living/sleeping room, bathroom and kitchen.

3. Type ASA. There is one Type ASA apartment which is a studio apartment and includes a living/sleeping room with bathroom, kitchen and storage room.

4. Type AlA. There are seven Type AlA apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom and bathroom, foyer and storage area (except that apartment R-1 has no storage area).

5. Type AlB. There are five Type AlB apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom and bathroom.

#### EXHIBIT "A"



6. Type A1C. There are six Type A1C apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom, dressing area and bathroom.

7. Type A1D. There is one Type A1D apartment which is a two-bedroom apartment and includes a living room, two bedrooms, bathroom, dining room and kitchen.

8. Type A2. There are six Type A2 apartments which are one-bedroom apartments and include a living room, dining area, kitchen, bedroom, bathroom, foyer and storage area. In addition, the A2 apartments have a study except for PH01 which has a storage room.

9. Type Front Desk. There is one Front Desk apartment which includes the lobby area, front desk, office and toilet.

The kitchens of Types AS, A1A, A1B, A1C, A1D and A2 include a sink with garbage disposal, a range with self-ventilating hood, a dishwasher and a refrigerator.

Each bathroom contains a vanity, toilet and bath/shower. The list which forms part of this Exhibit "A" shows apartment numbers, types, net living area, lanai area, total area percentage of common interest for each apartment and initial monthly lease rents.

AREA IN SQUARE FEET

Apt. No.	Type	of			Percentage	
		Net Living	Lanai	Total	Common Interest	Lease* Rent
Front Desk		932	387	1,319	1.80	\$54.00
101	H	466	233	699	1.80	54.00
102	H	466	233	699	1.80	54.00
103	H	466	233	699	1.80	54.00
104	H	466	233	699	1.80	54.00
105	H	466	233	699	1.80	54.00
201	A1A	944	390	1,334	2.80	84.00
202	A1B	596	81	677	1.30	39.00
203	A1C	793	81	874	1.80	54.00
205	H	385	146	531	0.93	27.90
301	A2	1,129	406	1,535	3.30	99.00
302	H	373	48	421	0.93	27.90
303	H	373	48	421	0.93	27.90
304	H	373	48	421	0.93	27.90
305	H	375	139	514	0.93	27.90
401	A1A	900	364	1,264	2.80	84.00
402	A1B	563	76	639	1.30	39.00
403	A1C	760	76	836	1.80	54.00
405	H	363	135	497	0.93	27.90
501	A2	1,067	380	1,447	3.30	99.00
502	H	359	43	402	0.93	27.90
503	H	359	43	402	0.93	27.90
504	H	359	43	402	0.93	27.90
505	H	352	127	479	0.93	27.90
601	A1A	854	340	1,194	2.80	84.00
602	A1B	531	71	602	1.30	39.00
603	A1C	729	120	800	1.80	54.00
605	H	342	120	462	0.93	27.90
701	A2	1,002	356	1,358	3.30	99.00
702	H	346	38	384	0.93	27.90
703	H	346	38	384	0.93	27.90
704	H	346	38	384	0.93	27.90
705	H	330	114	444	0.93	27.90
801	A1A	810	314	1,124	2.80	84.00
802	A1B	499	66	565	1.30	39.00
803	A1C	684	66	750	1.80	54.00
805	H	319	107	426	0.93	27.90
901	A2	946	329	1,275	3.30	99.00
902	AS	333	33	366	0.93	27.90
903	AS	333	33	366	0.93	27.90
904	AS	333	33	366	0.93	27.90
905	H	307	101	408	0.93	27.90

\* Monthly through November 30, 1997 thereafter established by renegotiation or appraisal as provided in the form of Apartment Lease.

EXHIBIT "A"

<u>Apt. No.</u>	<u>Type</u>	<u>Net Living</u>	<u>Lanai</u>	<u>Total</u>	<u>Percentage of Common Interest</u>	<u>Lease* Rent</u>
1001	A1A	769	288	1,057	2.80	84.00
1002	A1B	469	62	531	1.30	39.00
1003	A1C	664	62	726	1.80	54.00
1005	H	301	88	389	0.93	27.90
3101	A2	868	309	1,177	3.30	99.00
1102	H	318	30	348	0.93	27.90
1103	H	318	30	348	0.93	27.90
1104	H	318	30	348	0.93	27.90
1105	AS	291	92	383	0.93	27.90
1201	A1A	696	272	968	2.80	84.00
1202	ASA	407	60	467	1.30	39.00
1203	A1C	595	60	655	1.80	54.00
1205	H	260	93	353	0.93	27.90
PH01	A2	753	319	1,072	3.30	99.00
PH02	H	263	30	293	0.93	27.90
PH03	H	263	30	293	0.93	27.90
PH04	H	263	30	293	0.93	27.90
PH05	H	236	107	343	0.93	27.90
R1	A1A	595	294	889	2.80	84.00
R2	A1D	1,305	363	1,668	3.30	99.00

\* Monthly through November 30, 1997 thereafter established by renegotiation or appraisal as provided in the form of Apartment Lease.

EXHIBIT "A"