

## CONDOMINIUM PUBLIC REPORT

Prepared &  
Issued by:

Developer Colony Surf, Ltd.

Address 2895 Kalakaua Avenue, Honolulu, Hawaii 96815

Project Name (\*): The Colony Surf

Address: 2895 Kalakaua Avenue, Honolulu, Hawaii 96815

Registration No. 5365

Effective date: April 11, 2005

Expiration date: July 30, 2005

### 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 \_\_\_\_\_
- SUPPLEMENTARY:**  
(pink) This report updates information contained in the:
- Preliminary Public Report dated: June 30, 2004
- Final Public Report dated: \_\_\_\_\_
- Supplementary Public Report dated: \_\_\_\_\_
- And  Supersedes all prior public reports.
- Must be read together with Preliminary Public Report dated June 30, 2004
- 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.

Changes made are as follows:

1. An additional disclosure regarding parking stalls has been made on page 12.
2. Item III.C.9 on page 12 has been revised to disclose that the Board of Directors is coordinating efforts to obtain building permits for the enclosing of corridors.
3. The Project's structure is non-conforming. Examples regarding the effect of the Revised Ordinances of Honolulu on a non-conforming structure are provided on page 13.



9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

- There are no violations.  Violations will not be cured.  
 Violations and costs to cure are listed below\*:  Violations will be cured by \_\_\_\_\_

(Date)

\*Currently there are no records on file of building permits issued for enclosing the open corridors of all floors except the Penthouse levels. These enclosures expanded the floor areas by approximately 90 square feet and 150 square feet, respectively, for the Ewa side and Diamond Head side apartment units of the makai wing. Building permits are required by the Department of Planning and Permitting for these enclosures. The Board of Directors is currently coordinating efforts to obtain such building permits.

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

See the Architectural, Structural, Mechanical and Electrical Observation Reports attached as Exhibit C for a description of the current condition of The Colony Surf's structural components and mechanical and electrical installations. NO REPRESENTATIONS ARE MADE WITH RESPECT TO THE USEFUL LIFE OF THE STRUCTURAL COMPONENTS AND MECHANICAL AND ELECTRICAL INSTALLATIONS.

11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 Variance(s) to zoning code was/were granted as follows.

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>  x  </u>	<u>          </u>	<u>          </u>
Structures	<u>          </u>	<u>  x*  </u>	<u>          </u>
Lot	<u>  x  </u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitation which may apply.

\* Because the project was built in the 1950's, the structure is non-conforming.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

NOTE: In the event that the Colony Surf needs to be re-constructed as a result of the destruction or demolition of all or a portion of the building(s), the Colony Surf may be subject to, among other laws, regulations or ordinances, the restrictions provided under the City's Land Use Ordinance, including the following specific Ordinances of Honolulu:

1. Diamond Head Special District, ROH 21-9.40

Description: The purpose of this ordinance is in part to preserve the appearance and prominent public views of Diamond Head. If the Colony Surf makes major exterior repair, alteration or addition to the current structure, then the director has a right to review and modify such projects. If the Colony Surf were destroyed and rebuilt, then a review by a design advisory committee will most likely be required, and a height limitation of 25-feet will be imposed.

2. Shoreline Setbacks, ROH 23-1

Description: The purpose of this ordinance is in part to protect and preserve the natural shoreline. If the Colony Surf is destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, then upon reconstruction it probably will be required to have a shoreline setback of 40 feet inland from the certified shoreline.

3. Flood Hazard Districts, ROH 21-9.10

Description: The purpose of this ordinance is in part to protect life and property and to reduce public costs for flood control. If the Colony Surf is demolished to the extent that the cost of restoring the structure to its before-damage condition equals or exceeds 50% of the replacement value of the structure before the demolition occurred, then the Colony Surf must be rebuilt in accordance with the development standards (includes special designs to minimize damage caused by floods, and special drainage and infrastructure).

D. **Common Elements, Limited Common Elements, Common Interest:**

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit   D-1  

as follows:

2. Rights Under the Sales Contract: Before signing the sale 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 \_\_\_\_\_

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 Hawaii 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. 5365 filed with the Real Estate Commission on May 10, 2004.

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- 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.)
- E. The developer hereby certifies that all 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.

Colony Surf, Ltd., a Hawaii corporation  
 Printed Name of Developer

By: David S. Quist 4/5/05  
 Duly Authorized Signatory\* Date

DAVID S. QUIST SECRETARY, C.S. BOARD  
 Printed Name & Title of Person Signing Above/

Distribution:  
 Department of Finance, City & County of Honolulu  
 Planning Department, City & 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.***