

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

TUTU RICHARDS STREET  
P. O. BOX 3469  
HONOLULU, HAWAII 96801

## PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on  
WAIALAE GARDENS  
Waialae-nui Valley Subdivision  
Honolulu, Hawaii 96816

REGISTRATION NO. 293

### 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: June 8, 1970  
Expires: July 8, 1971

#### SPECIAL ATTENTION

A comprehensive reading 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 AUGUST 1, 1969 AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS LATE AS JUNE 4, 1970., THE DEVELOPER, IN NOTIFYING THE COMMISSION OF THEIR INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514, HAWAII REVISED STATUTES.

1. Waialae Gardens is a proposed leasehold condominium project consisting of 132 existing residential apartments arranged throughout 32 buildings all of which will be sold upon and subject to terms and provisions of individual apartment leases to be issued by the Trustees of the Bernice Pauahi Bishop Estate either directly to purchasers or through the Developer in which latter case an assignment consent by the Trustees of the Bernice Pauahi Bishop Estate shall be provided. Said apartment leases will be for a term of 55 years. The Developer advises that the last building of the project was completed sometime in April 1966, and since completion to present, the apartments have been occupied as residential rental units. One hundred seventy-three (173) parking stalls are available.

2. The Purchaser should note that the Trustees have reserved the right to be exercised upon request of the Developer to amend the Declaration to create up to 50 additional freehold estate by adding 50 additional apartment units, to add additional common elements and to add additional parking spaces on the common elements which parking spaces may be designated limited common elements appurtenant to apartment units. The design of the additional units shall be subject to the approval of the Trustees of the Bernice Pauahi Bishop Estate and shall not require the demolition or alteration of any apartment unit or common element structure. The amendment will result in the reduction of the common interest appurtenant to each apartment being sold under this registration. The formula for the reduction will be to give each of the apartment units under the amended declaration an equal interest in the common elements. Thus, if the maximum number of units were added, there would be 182 units and each unit's common interest would be 1/182 or .54+%.
3. The Developer of the project has submitted to the Commission for examination all documents and materials deemed necessary by the Commission for the registration of this proposed condominium and the issuance of this Preliminary Public Report.
4. No advertising and promotional matter has been submitted to the Commission, however, the Developer advises the Commission that all 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. Basic documents (Declaration of Horizontal Property Regime, By-Laws of Association of Apartment Owners and a Copy of Approved Floor Plans) have not been filed in the office of the recording officer.
6. The Developer submitted its estimated costs involved in completing the project and its plan of financing the project. The Commission has been advised that the Developer is presently negotiating with several institutional lenders for long-term mortgage loans to individually qualified purchasers of the apartment units, but that no written commitment has been obtained as of May 14, 1970.
7. The prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the condominium rules and regulations promulgated thereunder which relate to horizontal property regimes.
8. If the Final Public Report is not issued within one year from the date of the Preliminary Public Report, purchasers and prospective purchasers shall be entitled to a refund of all monies without further obligations.
9. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, June 8, 1970, unless a Final Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of the report.

NAME OF PROJECT: WAIALAE GARDENS

LOCATION: Waialae-nui Valley Subdivision, Keanu Street and Kilauea Avenue, and on the northwest side of Hunakai Street, Honolulu, Hawaii 96816. The site comprises a total area of 445,009 square feet.

TAX MAP KEY: FIRST DIVISION 3-5-17-35

ZONING: Apartment 2

DEVELOPER: Tropic Gardens III, a Joint Venture, whose principal place of business is Suite 410, 333 Queen Street, Honolulu, Hawaii, and telephone number is 536-6611.

As part of the registration, a copy of the Joint Venture Agreement by and between the joint venturers was submitted to the Commission. The joint venturers are further identified as follows:

Prime Corp., a Hawaii corporation, sole General Partner of Prime Garden Venture, a registered Hawaii Limited Partnership, Suite 410, 333 Queen Street, Honolulu, Hawaii.

Amfac Financial Corp., a Hawaii corporation, 700 Bishop Street, Honolulu, Hawaii.

ATTORNEY REPRESENTING DEVELOPER: Wooddell, Mukai & Wirtz (Attention: Mr. Allen W. Wooddell), Suite 594, Alexander Young Building, Honolulu, Hawaii, telephone: 536-6621.

DESCRIPTION: The proposed Declaration of Horizontal Property Regime reflects that the project is an existing residential complex consisting of 32 buildings located on 445,009 square feet of lease land and containing 100 two-bedroom apartment units and 32 three-bedroom apartment units. The 32 three-bedroom apartments, each containing seven rooms and a gross floor area of approximately 1,010 square feet in one story are located one at either end in each of 14 Type A buildings and 2 Type D buildings and numbered as follows:

<u>Apartment No.</u>	<u>Building No.</u>
25 and 28	G
29 and 32	H
33 and 36	I
37 and 42	J
43 and 46	K
63 and 66	P
75 and 78	S
87 and 90	V
91 and 94	W
95 and 98	X
99 and 102	Y
103 and 106	Z
107 and 110	A
111 and 116	B1
121 and 124	D1
129 and 132	F1

The 100 two-bedroom apartments each containing a total of six rooms in a gross floor area of approximately 1,035 square feet in two stories are located two in the center section in each of 14 Type A buildings and four in each of 16 Type C buildings and 4 in the center section of each of 2 Type D buildings and numbered as follows:

<u>Apartment No.</u>	<u>Building No.</u>
1, 2, 3 and 4	A
5, 6, 7 and 8	B
9, 10, 11 and 12	C
13, 14, 15 and 16	D
17, 18, 19 and 20	E
21, 22, 23 and 24	F
26 and 27	G
30 and 31	H
34 and 35	I
38, 39, 40 and 41	J
44 and 45	K
47, 48, 49 and 50	L
51, 52, 53 and 54	M
55, 56, 57 and 58	N
59, 60, 61 and 62	O
64 and 65	P

(Cont'd.)

<u>Apartment No.</u>	<u>Building No.</u>
67, 68, 69 and 70	Q
71, 72, 73 and 74	R
76 and 77	S
79, 80, 81 and 82	T
83, 84, 85 and 86	U
88 and 89	V
92 and 93	W
96 and 97	X
100 and 101	Y
104 and 105	Z
108 and 109	AI
112, 113, 114 and 115	BI
117, 118, 119 and 120	CI
122 and 123	DI
125, 126, 127 and 128	EI
130 and 131	FI

Each apartment contains in addition to bedrooms, 2 bathrooms, a living room and a kitchen. Each apartment shall be deemed to include all the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein, including refrigerator, built-in range, oven, water heater, garbage disposer, dishwasher, washer-dryer, and a room air conditioner. There are 173 parking stalls of which not less than one shall be assigned to each apartment upon the original conveyance thereof and which will be appurtenant to and for the exclusive use of such apartment provided that parking spaces may be transferred from apartment to apartment in the project as long as each apartment has at least one parking space appurtenant to it. Each apartment has immediate access to the front and rear entries appurtenant to such apartment and walkways connecting to parking areas and the street entrances of the project.

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 and they shall specifically include but not be limited to said land in leasehold, all foundations, floor slabs, columns, girders, beams, supports and finished perimeter and load bearing walls, chases, entries, and roofs of buildings, all yards, grounds, landscaping, swimming pool and other recreational facilities, all refuse facilities, mail boxes, patio slabs, all parking areas, driveways and walkways, all ducts, electrical equipment, wiring, pipes and other central and appurtenant transmissions facilities and installations over, under and across the project which serve more than one apartment for services, such as power, light, water, gas, sewer, telephone, radio, television signal distributions, any and all apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use.

LIMITED COMMON ELEMENTS: The proposed Declaration reflects that certain parts of the common elements herein 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: (a) Not less than one parking space for each apartment to be assigned upon the original conveyance thereof; (b) The front and rear entries of each apartment, including refuse containers and the patio slab adjoining each 3-bedroom apartment; and (c) All other common elements of the project which are rationally related to less than all of said apartments or buildings shall be limited to use of said apartments or buildings.

INTEREST TO BE CONVEYED TO PURCHASER: The proposed Declaration discloses that each apartment shall include all of the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein, including refrigerator, built-in range, oven, water heater, garbage disposer,

dishwasher, washer-dryer, and a room air conditioner. Each apartment shall have appurtenant thereto an undivided one one-hundred and thirty-second (1/132) fractional interest (0.75%) in all of the common elements of the project herein called "common interest" and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting and representation in the Association of Apartment Owners.

USE: The proposed Declaration provides that the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests and for no other purposes. The apartment shall not be rented to transient or hotel purposes which are defined as (a) rental for any period less than 30 days, or (b) any rental in which the occupants of the apartment are provided customary hotel services, such as room service for food and beverage, maid service, laundry, linen or bell-boy service. Except for such transient or hotel purposes, the owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration.

OWNERSHIP TO TITLE: The Notice of Intention states that the title to the land consisting of 445,009 square feet committed to the regime is vested in the Trustees of the Bernice Pauahi Bishop Estate. A Certificate of Title by Long & Melone, Ltd., licensed abstractors, dated April 14, 1969 verifies the above. The premises have been demised by the Trustees of the Bernice Pauahi Bishop Estate under Bishop Estate Lease No. 14,463 dated November 1, 1964 recorded in the Bureau of Conveyances in Liber 4971, page 296. The equitable title of such lease is owned by Developer pursuant to an Agreement of Sale of the lease dated March 27, 1969 recorded in the Bureau of Conveyances in Liber 6478, page 1.

ENCUMBRANCES AGAINST TITLE: The Certificate of Title by Long & Melone, Ltd., dated April 14, 1969 certifies that title of the property is subject to the following estates, interests, liens and encumbrances: Terms, covenants and conditions as contained in Lease No. 14,463 dated November 1, 1964, recorded in Liber 4971, page 296, as assigned. Building setback line as shown on map attached to said Lease. Mortgage dated November 28, 1966, recorded in Liber 5504, page 260, from Finance Investment Company, Limited to The Prudential Insurance Company of America, securing \$1,800,000.00. Chattel Mortgage dated November 28, 1966, recorded in Liber 5504, page 269, from Finance Investment Company, Limited to The Prudential Insurance Company of America. Agreement by and between the Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased, and The Prudential Insurance Company of America, dated November 28, 1966, recorded in Liber 5504, page 275. Agreement of Sale dated March 27, 1969, recorded in Liber 6478, page 1, from Finance Investment Company, Limited to Developers. Consent thereto dated March 27, 1969, recorded in Liber 6477, page 468, given by said Trustees. Taxes for the second half of the fiscal year July 1, 1969 to June 30, 1970 is due June 10, 1970.

Easement E-2 in favor of Hawaiian Electric Company, Inc., dated August 16, 1960, recorded in Liber 4046, page 158.

Easement W-1, 10 feet wide, in favor of the Board of Water Supply dated May 24, 1963, recorded in Liber 4581, page 33.

Assessments under Improvement District No. 145 affecting Lot Nos. 3, 4, 5, 6 and 7.

PURCHASE MONEY HANDLING: An executed Escrow Agreement dated May 30, 1970 identifies Long & Melone Title Insurance, Ltd., as the "Escrow." Upon examination the Sales Contract and the Escrow Agreement are found to be in consonance with Chapter 514, Hawaii Revised Statutes, and particularly Sections 514-36 to 514-40.

Among other provisions the executed Escrow Agreement reflects that the purchaser shall be entitled to a refund without interest and less any charges for credit reports or applications if purchaser shall in writing request his funds and any one of the following shall have occurred: (a) Escrow receives a written request from the Sellers to return to purchaser the funds of such purchaser then held

by escrow, or (b) If there is any change in the building plans requiring the approval of a county officer having jurisdiction over the issuance of permits for construction unless the purchaser has given written approval or acceptance of the change, or (c) If the purchaser entered into a Sales Contract prior to the issuance of the Final Public Report on the project and the Final Public Report differs in any material respect from the Preliminary Public Report, or (d) If the Final Public Report is not issued within one year from the date of issuance of the Preliminary Report.

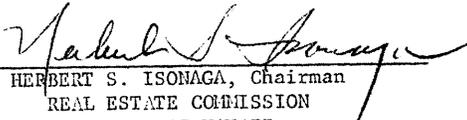
It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Sales Contract since the Escrow Agreement prescribes the procedure for receiving and disbursing purchaser's funds, the Sales Contract specifically provides that the purchaser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

MANAGEMENT AND OPERATIONS: The proposed By-Laws of the Association of Apartment Owners which are incorporated in the proposed Declaration, provide that the operation of the project shall be conducted for the Association of Apartment Owners under the direction of the Board of Directors, by a responsible corporate managing agent. Developer has advised the Commission that it had not selected or appointed the initial managing agent as yet.

STATUS OF PROJECT: The specimen Sales Contract states that in the event that less than 85 apartments are sold prior to December 15, 1970 Sellers may have the option to cancel this contract, refund to purchasers all monies paid, without interest, less costs of credit reports and loan applications and be relieved and released of all further liabilities under the Sales Contract. All improvements on the project have been constructed with completion sometime in April 1966. The Developer advises that upon completion of sufficient sales to pay existing encumbrances and the release of existing encumbrances, occupancy of the project will commence.

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Purchasers or prospective purchasers should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted August 1, 1969, and additional information subsequently filed as late as June 4, 1970.

This is a PRELIMINARY HORIZONTAL PROPERTY REGIMES CONDOMINIUM PUBLIC REPORT which is made a part of REGISTRATION NO. 293 filed with the Commission on July 29, 1969. 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.

  
HERBERT S. ISONAGA, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

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DEPARTMENT OF TAXATION  
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PLANNING DEPARTMENT, CITY & COUNTY OF HONOLULU  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

June 8, 1970  
Registration No. 293