

# 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

WAI'AU GARDENS KAI, UNIT "A"  
Kaahumanu Street  
Waiau, Ewa, Oahu, Hawaii

REGISTRATION NO. 524

### 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: May 2, 1973  
Expires: June 2, 1974

#### SPECIAL ATTENTION

A comprehensive reading of the report is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser and prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED FEBRUARY 8, 1973. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. WAI'AU GARDENS KAI, UNIT "A" is a proposed leasehold condominium project consisting of one hundred eight (108) dwelling units, including a resident manager's unit, arranged throughout twenty-four (24) two-story multifamily apartment buildings. One hundred ninety-six (196) uncovered parking stalls are available. Each apartment unit shall have at least one (1) parking space appurtenant to it.

2. The Developer of the project has submitted to the Commission for examination all documents and exhibits deemed necessary for the issuance of this Preliminary Public Report, except for some particular requirement, or requirements, which can be expected to be completed as part of this registration.
3. No advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
5. The Preliminary Public Report is made a part of the registration on Waiiau Gardens Kai, Unit "A" condominium project. The Developer has the responsibility of placing a true copy of the Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers. Securing a signed copy of the Receipt for the Final Horizontal Property Regime Public Report from each purchaser and prospective purchaser when it is issued is also the responsibility of the Developer.
6. The Preliminary Public Report automatically expires thirteen (13) months from the date of issuance, May 2, 1973, unless a supplementary report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: WAIU GARDENS KAI, UNIT "A"

LOCATION: The project is located on a lot fronting Kaahumanu Street, Waiiau, Ewa, Oahu, Hawaii, and containing 437,616 square feet or thereabouts. The description of the land by file plan number and the reserved easements, rights, powers and privileges are more fully set forth in the Declaration.

TAX KEY: 9-8-02-Por. 3

ZONING: A-1

DEVELOPER: The Notice of Intention reveals the Developer to be Lear Siegler Properties, Inc., Suite 1112, Amfac Building, 700 Bishop Street, Honolulu, Hawaii 96813, Telephone No. 521-8781. The officers of the corporation are as follows:

Robert L. Purcell	- President and Chairman of the Board
Richard W. Harbison	- Executive Vice President and Director Climate Control & Housing Group
Kenneth A. Ruck	- Vice President and Assistant Secretary
Lowell D. Funk	- Vice President and Assistant Secretary
James N. Thayer	- Secretary and Treasurer
Kenneth A. Graeb	- Assistant Secretary
Charles K. Hamane	- Vice President
Edris R. Rauchfuss	- Assistant Secretary
Jessie M. Peterson	- Assistant Secretary

ATTORNEY REPRESENTING DEVELOPER: Okumura and Takushi (Alfred M. K. Wong), Suite 400, International Savings Building, 1022 Bethel Street, Honolulu, Hawaii 96813, Telephone No. 536-1791.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal Property Regime reflects that this is a leasehold condominium apartment complex. One hundred seven (107) freehold estates are designated within the perimeter walls, floors and ceilings of each of the 107 out of a total of 108 three-bedroom apartment units of the project contained in twenty-four (24) two-story multifamily residential buildings constructed principally of double wall construction of drywall interior and masonite exterior and wood floors, which spaces are herein called the "apartments" as designated on the Condominium File Plan and described and numbered as follows:

<u>Building No.</u>	<u>Apartment No.</u>
98-441	1, 2, 3, 4, 5, 6, 7 and 8
98-437	9 and 10
98-433	11, 12, 13, 14, 15 and 16
98-417	18
98-413	19, 20, 21 and 22
98-409	23, 24, 25 and 26
98-401	27, 28, 29 and 30
98-405	31, 32, 33 and 34
98-1444	35, 36, 37 and 38
98-1434	39, 40, 41 and 42
98-1438	43, 44, 45, 46, 47 and 48
98-1430	49, 50, 51, 52, 53, 54, 55 and 56
98-1422	57, 58, 59 and 60
98-1414	61, 62, 63 and 64
98-1418	65, 66, 67, 68, 69 and 70
98-1426	71, 72, 73, 74, 75 and 76
98-805	77, 78, 79 and 80
98-801	81, 82, 83 and 84
98-809	85 and 86
98-813	87 and 88
98-817	89, 90, 91, 92, 93 and 94
98-821	95, 96, 97, 98, 99 and 100
98-825	101 and 102
98-829	103, 104, 105, 106, 107 and 108

Each of the one hundred seven (107) apartment units contains a living room, dining-family room, kitchen and half bath on the first floor and three bedrooms and a full bath on the second floor for a gross floor area of approximately 1,142 square feet, plus a lanai of approximately 126 square feet.

Each apartment has immediate access to front and rear entries appurtenant to such apartment and walkways connecting the buildings to the street entrances and parking areas of the project.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment, which are utilized for or serve any other apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all 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.

COMMON ELEMENTS: The proposed Declaration states that the owners of apartments will have an undivided interest in the common elements, including specifically but not limited to:

- (a) Said land in fee simple.
- (b) Apartment No. 17, identical to the other 107 apartments, located in Building 98-417 together with parking space No. 37, for the use of the resident manager.
- (c) All foundations, floor supports, columns, girders, beams, supportors, unfinished perimeter walls and load-bearing walls and roofs of the residential buildings.
- (d) All yards, grounds and landscaping, roads, walkways, loading areas, parking areas, driveways, the swimming pool, recreation facilities and all refuse facilities.
- (e) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission 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 and radio and television signal distribution.
- (f) 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, called the limited common elements, are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

- (a) The front and rear entries of each apartment shall be appurtenant to and for the exclusive use of such apartment.
- (b) One hundred ninety-six (196) parking spaces designated on said Condominium Map by numbers 1 through 196, inclusive, shall be appurtenant to the respective apartments with which the same are conveyed upon the initial conveyance by lease; each apartment shall always have at least one parking space appurtenant to it but otherwise any automobile parking space easement may be transferred from apartment to apartment in the project but shall always be appurtenant to one of the apartments in the project. The Board of Directors shall have the power, with the approval of the Trustees, to transfer parking spaces between the apartments, effective only upon the recording of an instrument in said Bureau of Conveyances setting forth such transfer.
- (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 the use of such apartments or buildings.

RESERVATION OF EASEMENTS: The fee owners reserve unto themselves within all easements rights-of-way shown on File Plan 1305 and the right to grant to others or to any public utility or governmental authority such rights-of-way over, across and under said easements for roads, lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer drainage and similar public services and utilities, and the right to enter for such purposes and to repair such facilities and to trim any trees in the way of such lines.

COMMON INTEREST: The Declaration reflects that each apartment shall have appurtenant thereto an undivided 1/107 or 0.93+ percent interest in all common elements and the same proportionate share in all common profits and expenses of the project and for all other purposes, including voting.

RESTRICTION AS TO USE: The Declaration reflects that the apartments shall be occupied and used only as private dwellings; and the apartments may be leased except for 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 apartments are provided customary hotel service such as room service for food and beverage, maid service, laundry and linen and bellboy service.

RECREATIONAL FACILITIES: The Declaration provides that upon substantial completion of recreational and other facilities on Lot 5 of File Plan 1305 and the incorporation of a non-profit corporation to be known as Waiiau Gardens Kai Recreation Association as Lessee of said Lot 5 for maintenance, operation and control thereof, the Declaration shall be amended by adding to the common elements an easement for park and recreational purposes. Such easement shall be subject to protective provisions and reasonable rules and regulations made by the Trustees and the Developer. Each apartment owner shall automatically become a member of said corporation until such time as his ownership of such apartment ceases. The common expenses shall also include a proportionate share of all reasonable expenses of maintenance, operation, repair, replacement, insurance, rent, real property taxes and assessments of said Lot 5 and all recreational facilities thereon for which all apartment owners shall be severally liable in equal shares with all other apartment owners of the project and with all apartment owners of the condominium projects proposed to be developed on Lot 1, area 945,683 square feet, Lot 2, area 438,442 square feet and Lot 4, area 1,266,593 square feet, as shown on File Plan 1305. The Developer has stated that Lot 5 shall consist of a park and baseball field.

OWNERSHIP OF TITLE: The Developer reports that title to the land is vested in the Trustees of the Estate of Bernice Pauahi Bishop. The Preliminary Report dated February 12, 1973 issued by Security Title Corporation confirms such ownership.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated February 12, 1973 reports that title to the land is subject to the following:

1. Real property taxes that may be due and owing.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent 4475.
3. Easement 1 (10' wide) for drainage purposes affecting Lot 3 as delineated on File Plan.

4. Portion of Easement A (10' wide) for sanitary sewer purposes over and across Lot 3 as delineated on File Plan.

5. Easement C (20' wide) for drainage purposes affecting Lot 3 as delineated on File Plan.

6. The terms and provisions of that certain Bishop Estate Lease No. 6600 dated July 1, 1940, made by and between TRUSTEES UNDER THE WILL AND OF THE ESTATE OF BERNICE P. BISHOP, DECEASED, as Lessors, and HONOLULU PLANTATION COMPANY, a California corporation, as Lessee, recorded in the Bureau of Conveyances of the State of Hawaii in Book 1627 at Page 326, as amended, which Lease, as amended, was assigned to OAHU SUGAR COMPANY, LIMITED, a Hawaii corporation, by instrument dated January 1, 1947, recorded in Book 2031 at Page 166.

7. The terms and provisions of that certain unrecorded Development Agreement made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP and AMERICAN FACTORS LIMITED (now AMFAC, INC.), dated August 29, 1960, as amended, which rights, by mesne assignments, were acquired by WAIHAOLE WATER COMPANY, LIMITED, a Hawaii corporation, as to an undivided one-half (1/2) interest therein, by instrument dated December 27, 1967, recorded in Book 5915 at Page 395, and by LEAR SIEGLER PROPERTIES, INC., a Delaware corporation, as to an undivided one-half (1/2) interest therein, by instrument dated December 30, 1969, recorded in Book 6976 at Page 334.

8. Mortgage dated December 27, 1967, made by TROUSDALE CONSTRUCTION COMPANY, a California corporation, as Mortgagor, to BANK OF HAWAII, a Hawaii corporation, as Mortgagee, recorded in Book 5916 at Page 20. (Also affects other property.)

9. Undated Financing Statement recorded on December 28, 1967 in Book 5916 at Page 44, made by TROUSDALE CONSTRUCTION COMPANY, as Debtor, to BANK OF HAWAII, as Secured Party.

10. Additional Charge Mortgage and Financing Statement dated January 30, 1967, made by TROUSDALE CONSTRUCTION COMPANY, as Mortgagor, to BANK OF HAWAII, as Mortgagee, recorded in Book 6397 at Page 94.

11. Second Additional Charge Mortgage and Financing Statement dated July 20, 1970, made by LEAR SIEGLER PROPERTIES, INC., as Mortgagor, to BANK OF HAWAII, as Mortgagee, recorded in Book 7515 at Page 36.

12. Mortgage and Financing Statement dated March 11, 1971, made by WAIHAOLE WATER COMPANY, LIMITED, as Mortgagor, to BANK OF HAWAII, as Mortgagee, recorded in Book 7515 at Page 49. (Also affects other property.)

PURCHASE MONEY HANDLING: A copy of the Sales Contract and the executed Escrow Agreement dated February 7, 1973 have been submitted as part of the registration. The Escrow Agreement identifies Bank of Hawaii as the Escrow. Upon examination, the Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes.

Among other provisions the Escrow Agreement provides that if a Purchaser enters into a sales contract prior to the date of issuance of a Final Public Report by the Real Estate Commission, such Purchaser shall have the right to cancel his contract to purchase and to obtain a refund of all moneys held by Escrow which were paid by such Purchaser under such contract if the Final Public Report differs in any material respect from the Preliminary Public Report or there is any change in the condominium building plans subsequent to the execution of said sales contract and prior to the issuance of said Final Public Report and Seller fails to obtain Purchaser's written approval or acceptance of the specific change, or if the Final Public Report is not issued within one year from the date of the issuance of the Preliminary Public Report.

It is incumbent upon the purchaser and prospective purchaser that he reads with care the Sales Contract and the executed Escrow Agreement. The latter agreement establishes how the proceeds from the sale of apartments and all sums received from any source are placed in escrow, as well as the methods of disbursement of said funds.

MANAGEMENT AND OPERATIONS: The Declaration discloses that the administration of the project shall be vested in the Association of Apartment Owners. Operation of the project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-laws except that the initial Managing Agent shall be appointed by the Developer. Lear Siegler Properties, Inc., a Delaware corporation authorized to do business in Hawaii, has been identified as the initial Managing Agent. The Management Agreement provides that the agreement shall be in effect for a term of three (3) years from the date of execution.

CONTRACTOR: Lear Siegler Properties, Inc.

ARCHITECT: George S. Winnacker

STATUS OF PROJECT: The Developer has commenced construction of the project. Construction will be completed on or about September 1, 1973.

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The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted February 8, 1973.

The PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 524 filed with the Commission on February 8, 1973.

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 in color.

  
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(for) DOUGLAS R. SODEYAMA, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING COMMISSION, CITY AND COUNTY  
OF HONOLULU  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

Registration No. 524  
May 2, 1973