

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

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

**FINAL
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT**

on
WAI'AU GARDENS KAI, UNIT "B"
Kaahumanu Street
Wai'au, Ewa, Oahu, Hawaii

REGISTRATION NO. 539

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: June 25, 1973
Expires: July 25, 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 or prospective purchaser is particularly directed to the following:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED MARCH 16, 1973 AND INFORMATION SUBSEQUENTLY FILED AS OF JUNE 20, 1973. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION OF MATERIAL CHANGES IN THE PROJECT IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514, HAWAII REVISED STATUTES.

1. WAI'AU GARDENS KAI, UNIT "B" is a proposed leasehold condominium project consisting of one hundred fourteen (114) dwelling units, including a resident manager's unit, arranged throughout twenty-five (25) two-story multifamily apartment buildings. One hundred ninety-four (194) 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 Final Public Report.
3. The Commission has determined that the basic documents (Declaration of Horizontal Property Regime, with By-Laws of Association of Apartment Owners attached, and a copy of the approved Floor Plans) have been filed in the office of the recording officer.

The Declaration and By-Laws dated May 30, 1973, have been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9202 at Page 153.

The Bureau of Conveyances has assigned Condominium Map No. 284 to the project.

4. No advertising and promotional matter has 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 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
6. The Final Public Report is made a part of the registration on Waiiau Gardens Kai, Unit "B" condominium project. The Developer has the responsibility of placing a true copy of the Final Public Report (white 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 is also the responsibility of the Developer.
7. The Final Public Report automatically expires thirteen (13) months from the date of issuance, June 25, 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: WAIIAU GARDENS KAI, UNIT "B"

LOCATION: The project is located on a lot fronting Kaahumanu Street, Waiiau, Ewa, Oahu, Hawaii, and containing 438,442 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 Declaration of Horizontal Property Regime reflects that this is a leasehold condominium apartment complex. One hundred thirteen (113) freehold estates are designated within the perimeter walls, floors and ceilings of each of the 113 out of a total of 114 three-bedroom apartment units of the project contained in twenty-five (25) two-story multifamily residential buildings constructed principally of double wall construction of drywall interior and masonry 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>
98-1399	1, 2, 3, 4, 5 and 6
98-1395	7, 8, 9, 10, 11 and 12
98-1391	13, 14, 15, 16, 17 and 18
98-1387	19, 20, 21 and 22
98-1383	23, 24, 25 and 26
98-1379	27, 28, 29, 30, 31 and 32
98-1375	33, 34, 35 and 36
98-1371	37, 38, 39 and 40
98-1367	41, 42, 43 and 44
98-1363	46, 47 and 48
98-1359	49, 50, 51 and 52
98-1355	53, 54, 55, 56, 57 and 58
98-1352	59, 60, 61, 62, 63, 64, 65 and 66
98-1356	67, 68, 69 and 70
98-1360	71, 72, 73 and 74
98-1364	75, 76, 77, 78, 79 and 80
98-1368	81, 82, 83 and 84
98-1372	85, 86, 87 and 88
98-1376	89, 90, 91, 92, 93 and 94
98-1380	95 and 96
98-1384	97 and 98
98-1388	99, 100, 101 and 102
98-1390	103, 104, 105 and 106
98-1394	107, 108, 109, 110, 111 and 112
98-1398	113 and 114

Each of the one hundred thirteen (113) 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 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. 45, identical to the other 113 apartments, located in Building 98-1363 together with parking spaces Nos. 66 and 67, 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 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-four (194) parking spaces designated on said Condominium Map by numbers 1 through 194, 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 1/113 or 0.884+ 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 3, area 437,616 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 2 for drainage purposes over and across Lot 2 as delineated on File Plan 1305.
4. Easement 3 for sanitary sewer purposes over and across Lot 2 as delineated on said File Plan 1305.
5. Easement 4 (10 feet wide) for sanitary sewer purposes affecting Lot 2 as delineated on said File Plan 1305.
6. Easement 5 (15 feet wide) for waterline purposes over and across Lot 2 as delineated on said File Plan 1305.
7. Portion of Easement A (10 feet wide) for sanitary sewer purposes over and across Lot 2, as delineated on said File Plan 1305.
8. Easement E (15 feet wide) for drainage purposes affecting Lot 2 as delineated on said File Plan 1305.
9. Unrecorded Agreement of Sale dated December 30, 1971, made by and between Amfac-Trousdale and Lear Siegler Properties, Inc., as Seller, and U. S. Financial, as Purchaser, of which a short form was recorded in Book 8039 Page 184 (also affects other property).
10. The terms and provisions of that certain unrecorded Development Agreement made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUHI 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.
11. 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.)
12. Indenture of Lease No. 21,970, dated December 1, 1972, recorded in Book 9105 Page 261, in favor of Central-Trousdale.
13. 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.
14. 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.

15. 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.)

16. Restrictive Access Rights along Interstate Highway (FAP No. I-H1-1 (40)) along Lot 2, as delineated on File Plan 1305.

17. Lis Pendens dated April 14, 1969, recorded on April 14, 1969 in said Bureau of Conveyances in Book 6478 at Page 306, made in the matter entitled "STATE OF HAWAII, by its Attorney General, Plaintiff, vs. FRANK ELBERT MIDKIFF, et al., Defendants.", now pending in the Circuit Court of the First Circuit, State of Hawaii under Civil No. 27687. Affects abutter's rights of access appurtenant to Easement F (besides other lands).

18. Amended Lis Pendens dated July 30, 1969, recorded on August 1, 1969, in said Bureau of Conveyances in Book 6623 at Page 15, made in the matter entitled "STATE OF HAWAII, by its Attorney General, Plaintiff, vs. FRANK ELBERT MIDKIFF, et al., Defendants.", now pending in the Circuit Court of the First Circuit, State of Hawaii under Civil No. 27687. Affects abutter's rights of access appurtenant to Easement F (besides other lands).

19. Grant dated February 28, 1972, in favor of the City and County of Honolulu for underground sewer purposes, recorded in Book 9015 Page 292.

20. Grant dated March 14, 1972, in favor of the City and County of Honolulu for drainage purposes, recorded in Book 9015 Page 353.

21. Declaration of Horizontal Property Regime with By-Laws attached dated May 30, 1973, recorded in Book 9202 Page 153. The approved floor plans have been designated as Condominium Map No. 284.

PURCHASE MONEY HANDLING: A copy of the Sales Contract and the executed Escrow Agreement dated March 8, 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.

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

FINANCING OF PROJECT: The Developer advises that Purchasers' funds will not be used for construction of the project. Construction of the entire project shall be financed by a line of credit extended to Developer by Bank of Hawaii.

STATUS OF PROJECT: The estimated date of completion of the project is October 1, 1973.

The purchaser or prospective purchaser shall be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted March 16, 1973, and additional information subsequently filed as of June 20, 1973.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 539 filed with the Commission on March 16, 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 white.


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

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ESCROW AGENT

REGISTRATION NO. 539

JUNE 25, 1973.