

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 "E"
Noelani Street
Waiau, Ewa, Oahu, Hawaii

REGISTRATION NO. 561

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: April 6, 1976

Expires: May 6, 1977

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 MAY 17, 1973 AND INFORMATION SUBSEQUENTLY FILED AS OF APRIL 1, 1976. 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, AS AMENDED.

1. WAI'AU GARDENS KAI, UNIT "E" is a leasehold condominium project consisting of ninety-four (94) dwelling units, arranged throughout twenty-five (25) two-story multifamily apartment buildings with one hundred sixty-eight (168) uncovered parking stalls. 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 July 12, 1973, have been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9326 at Page 345.

The Bureau of Conveyances has assigned Condominium Map No. 295 to the project.

Said Declaration has been amended by First Amendment to Declaration dated September 26, 1974, recorded in said Bureau of Conveyances in Liber 10169 at Page 590, and Second Amendment to Declaration dated January 13, 1975, recorded in said Bureau of Conveyances in Liber 10401 at Page 240.

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 Regimes.
6. The Final Public Report is made a part of the registration on WAI'AU GARDENS KAI, UNIT "E" 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 when it is issued is also the responsibility of the Developer.
7. The Final Public Report automatically expires thirteen (13) months from the date of issuance, April 6, 1976, 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: WAI'AU GARDENS KAI, UNIT "E"

LOCATION: The project is located on a lot fronting Noelani Street, Wai'au, Ewa, Oahu, Hawaii, and containing 379,602 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: 9-8-59-7

ZONING: A-1 (Low Density-Apartment)

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 T. Campion	President & Chairman of the Board
Charles F. Pitts	Executive Vice President
K. Robert Hahn	Executive Vice President
Kenneth A. Ruck	Vice President & Assistant Secretary
Philip F. Cousar	Vice President & Assistant Secretary
Charles K. Hamane	Vice President
James N. Thayer	Vice President-Secretary-Treasurer
Edward N. Keliikoa	Assistant Secretary
Edris R. Rauchfuss	Assistant Secretary

ATTORNEY REPRESENTING DEVELOPER: Okumura Takushi Funaki & Wee (Alfred M. K. Wong), Suite 500, Alexander Young Building, 1015 Bishop Street, Honolulu, Hawaii 96813, Telephone No. 536-1791.

DESCRIPTION OF PROJECT: The Declaration of Horizontal Property Regime, as amended, reflects that this is a leasehold condominium apartment complex. Ninety-four (94) freehold estates are designated within the perimeter walls, floors and ceilings of each of the 94 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 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>
98-1428	1, 2, 3 and 4
98-1426	5, 6, 7, 8, 9 and 10
98-1424	11, 12, 13 and 14
98-1422	15, 16, 17 and 18
98-1420	19, 20, 21 and 22
98-1414	23, 24, 25 and 26
98-1412	27, 28, 29 and 30
98-1410	31 and 32
98-1408	33 and 34
98-1406	35, 36, 37 and 38
98-1404	39, 40, 41 and 42
98-1402	43, 44, 45 and 46
98-901	47, 48, 49 and 50
98-905	51, 52, 53 and 54
98-911	55, 56, 57 and 58
98-913	59 and 60
98-915	61, 62, 63 and 64
98-917	65, 66, 67 and 68
98-919	69, 70, 71 and 72
98-921	73, 74, 75 and 76
98-925	77, 78, 79 and 80
98-929	81 and 82
98-931	83, 84, 85 and 86
98-939	87, 88, 89 and 90
98-935	91, 92, 93 and 94

Each of the 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 building 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, as amended, 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) All foundations, floor supports, columns, girders, beams, supportors, unfinished perimeter walls and load-bearing walls and roofs of the residential buildings.
- (c) All yards, grounds and landscaping, roads, walkways, loading areas, parking areas, driveways, the swimming pool, recreation facilities and all refuse facilities.
- (d) 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.
- (e) 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.
- (f) An easement for park and recreational purposes in common with the owners of apartments in Waiiau Gardens Kai, Unit "A", situate on Lot 3 of File Plan 1305, Waiiau Gardens Kai, Unit "B", situate on Lot 2 of File Plan 1305, Waiiau Gardens Kai, Unit "D", situate on Lot 2 of File Plan 1317, Waiiau Gardens Kai, Unit G-1, situate on Lot 1 of File Plan 1415, Waiiau Gardens Kai, Unit G-II, situate on Lot 2 of File Plan 1415, and all of the owners of apartments in the condominium projects to be developed on Lot 3 of File Plan 1317 and Lot 2 of File Plan 1366, in all recreational areas and facilities developed on Lot 5 of File Plan 1305; subject to and with the benefit of the Declaration of Protective Provisions for said Lot 5 dated December 5, 1974, which was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 10299 at Page 1, and subject also to all reasonable rules and regulations from time to time made by the Trustees and Lessee or their lessee thereof.

LIMITED COMMON ELEMENTS: The Declaration, as amended, 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 sixty-eight (168) parking spaces designated on said Condominium Map by numbers 1 through 168, 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 1317 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.

INTEREST TO BE CONVEYED TO PURCHASERS: The Declaration, as amended, reflects that each apartment shall have appurtenant thereto an undivided 1/94 or 1.0638+ 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, as amended, 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, as amended, provides that 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 Lot 5, area

102,228 square feet, as shown on File Plan 1305, and, if any, 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 developed and proposed to be developed on Lot 2, area 438,442 square feet, and Lot 3, area 437,616 square feet, as shown on File Plan 1305, Lot 2, area 401,924 square feet, and Lot 3, area 378,928 square feet, as shown on File Plan 1317, Lot 2, area 425,232 square feet, as shown on File Plan 1366 (being a portion of Lot 1, File Plan 1305), and Lot 1, area 202,517 square feet, and Lot 2, area 257,350 square feet, as shown on File Plan 1415 (being a portion of Lot 1, File Plan 1305). The Developer has stated that Lot 5 consists of a park and baseball field.

WAI'AU GARDENS KAI RECREATION ASSOCIATION: Wai'au Gardens Kai Recreation Association, a Hawaii non-profit corporation, is the Lessee of said Lot 5. Each apartment owner of this project is a member of said corporation along with apartment owners of other projects as enumerated above, and each apartment owner shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in said corporation shall automatically cease. Such membership shall be appurtenant to and may not be separate from ownership of an apartment and shall be deemed to be conveyed or encumbered with the apartment even though such membership is not expressly mentioned or described in the conveyance or other instrument.

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 18, 1976 issued by Security Title Corporation confirms such ownership.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated February 18, 1976 issued by Security Title Corporation reports that title to the land is subject to the following:

1. For any taxes that may be due and owing, reference is hereby made to the Office of the Assessor, First Division.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines as reserved in Royal Patent 4475.
3. The terms and provisions of that certain unrecorded Development Agreement made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP and AMERICAN FACTORS LIMITED (now AMFAC, INC.), dated August 29, 1960, as amended, which rights, by mesne assignments, were acquired by WAI'AHOLE 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.
4. 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).

5. Undated Financing Statement recorded on December 28, 1967 in said Bureau of Conveyances in Book 5916 at Page 44.

6. 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.

7. 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.

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

9. The terms and provisions of that certain Lease No. 22,310 dated May 1, 1973, recorded in said Bureau of Conveyances in Book 9295 at Page 110, made by and between TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, as Lessors, and CENTRAL OAHU LAND CORPORATION, a Hawaii corporation, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation, authorized to do business in Hawaii, which corporations are associated in a joint venture known as CENTRAL-TROUSDALE, as Lessees; which lease was amended by instrument dated September 12, 1974, recorded in said Bureau of Conveyances in Book 10145 at Page 98.

10. The covenants, agreements, obligations, conditions and other provisions set forth in that certain Declaration of Horizontal Property Regime of Waiau Gardens Kai, Unit "E" dated July 12, 1973, recorded in said Bureau of Conveyances in Book 9326 at Page 345, and the By-Laws attached thereto; filed with Condominium Map No. 295. Said Declaration was amended by instruments dated September 26, 1974 and January 13, 1975, recorded in said Bureau in Book 10169 at Page 590, and Book 10401 at Page 240, respectively.

11. Designation of Easement S-3 for sanitary sewer purposes over and across Lot 1 as shown on sketch attached to that certain instrument dated September 12, 1974, recorded in said Bureau in Book 10145 at Page 98.

The Developer reports to the Commission that the encumbrances listed as Items 3, 4, 5, 6, 7, 8 and 9 will be removed from the title report for each apartment upon issuance of the Apartment Lease.

PURCHASE MONEY HANDLING: A copy of the Sales Contract and the executed Escrow Agreement dated May 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 and specifically Sections 514-35 through 514-40, 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. Real Estate Hale, Inc., whose principal place of business and post office address is 1831 N. King Street, Honolulu, Hawaii 96819, has been named as the initial Managing Agent.

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

STATUS OF PROJECT: The Owner's Notice of Completion filed in the Circuit Court of the First Circuit of the State of Hawaii on June 24, 1974, states that the project was completed in June 1974.

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 May 17, 1973 and additional information subsequently filed as of April 1, 1976.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 561 filed with the Commission on May 17, 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.


Member, 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. 561

April 6, 1976