

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

WAIAU GARDENS KAI, UNIT G-II
Noelani Street
Waiiau, Ewa, Oahu, Hawaii

REGISTRATION NO. 770

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 9, 1975

Expires: June 9, 1976

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 APRIL 29, 1975 AND INFORMATION SUBSEQUENTLY FILED AS OF MAY 1, 1975. 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 AS AMENDED.

1. WAIAU GARDENS KAI, UNIT G-II is a proposed leasehold condominium project consisting of one hundred five (105) dwelling units, arranged throughout twenty-one (21) two-story multifamily apartment buildings. One hundred thirty-three (133) 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 G-II 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 and for securing a signed copy of the receipt for Horizontal Property Regime Public Report from each prospective purchaser. 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 9, 1975, unless a supplementary report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.
7. 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 not been filed or recorded in the office of the recording officer.

NAME OF PROJECT: WAIU GARDENS KAI, UNIT G-II

LOCATION: The project is located on a lot fronting Noelani Street, Waiiau, Ewa, Oahu, Hawaii, and containing 257,350 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: 9-8-59:8

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 L. Purcell	President and Chairman of the Board
Charles F. Pitts	Vice President and Director Climate Control and Housing Group
Kenneth A. Ruck	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 536-1791.

DESCRIPTION OF PROJECT: The proposed Declaration of Horizontal Property Regime reflects that this is a leasehold condominium apartment complex. One hundred five (105) freehold estates are designated within the perimeter walls, floors and ceilings of each of the 105 two-bedroom apartment units of the project contained in twenty-one (21) 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>
98-930	1, 2, 3, 4, 5, 6
98-928	7, 8, 9
98-926	10, 11, 12, 13, 14, 15
98-924	16, 17, 18
98-922	19, 20, 21
98-920	22, 23, 24, 25, 26, 27
98-1394	28, 29, 30
98-1392	31, 32, 33, 34, 35, 36
98-1388	37, 38, 39, 40, 41, 42
98-1386	43, 44, 45, 46, 47, 48
98-1384	49, 50, 51
98-1382	52, 53, 54
98-1380	55, 56, 57
98-1381	58, 59, 60, 61, 62, 63, 64, 65, 66
98-1383	67, 68, 69, 70, 71, 72,
98-1385	73, 74, 75, 76, 77, 78
98-1387	79, 80, 81
98-1391	82, 83, 84, 85, 86, 87
98-1393	88, 89, 90, 91, 92, 93
98-1395	94, 95, 96, 97, 98, 99
98-1397	100, 101, 102, 103, 104, 105

Each apartment contains a living room, dining-family room, kitchen and a half bath on the first floor and two bedrooms and a full bath on the second floor, for a gross floor area of approximately 783 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 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) 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 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 "E", situate on Lot 1 of File Plan 1317, Waiiau Gardens Kai, Unit G-1, situate on Lot 1 of File Plan 1415, and all of the owners of apartments in the condominium projects proposed 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 proposed Declaration reflects that certain part 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 thirty-three (133) parking spaces designated on said Condominium Map by numbers 1 through 133, 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 1415 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 PURCHASERS: The Declaration reflects that each apartment shall have appurtenant thereto an undivided 1/105 or .95238+ per cent 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 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 1, area 379,602 square feet, 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, 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 January 13, 1975, issued by Security Title Corporation confirms such ownership.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated January 13, 1975, issued by Security Title Corporation 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. Restrictive Access Rights along Interstate Highway (FAP No. I-HI-1 (40)) along Lot 2, as delineated on File Plan 1415.
4. The terms and provisions of that certain unrecorded Development Agreement made by and between the TRUSTEES OF THE ESTATE OF BERNICE PAU'AHU 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.

5. 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).

6. Undated Financing Statement recorded on December 28, 1967 in said Bureau of Conveyances in Book 5916 Page 44, made by Trousdale Construction Company, Debtor, and Bank of Hawaii, Secured Party.

7. 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.

8. 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.

9. 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).

10. Lis Pendens dated April 14, 1969, recorded on April 14, 1969 in said Bureau of Conveyances in Book 6478 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 Lot 2 (also affects other property).

Amended Lis Pendens dated July 30, 1969, recorded on August 1, 1969 in said Bureau of Conveyances in Book 6623 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 Lot 2 (also affects other property).

11. Notice of Mechanic's & Materialman's Lien dated March 21, 1974, filed in the Circuit Court of the First Circuit, State of Hawaii as M. L. No. 2788, in favor of WARD-FOODS, INC., re: claim for payment in the sum of \$26,963.85.

12. Notice of Mechanic's Lien and Demand for Payment dated March 21, 1974, recorded on March 22, 1974 in said Bureau of Conveyances in Book 9792 Page 564, made in the matter entitled "THE RMT CORPORATION, Claimant, vs. J. A. THOMPSON & SON, INC., LEAR SIEGLER, INC., LEAR SIEGLER PROPERTIES, INC., CENTRAL OAHU LAND CORPORATION and TRUSTEES UNDER THE WILL AND OF THE ESTATE OF BERNICE PAUHI BISHOP, DECEASED, Respondents.", filed in the Circuit Court of the First Circuit, State of Hawaii under M. L. No. 2809, re: claim for payment in the sum of \$21,657.22.

13. Notice of Mechanic's & Materialman's Lien dated April 17, 1974, filed in the Circuit Court of the First Circuit, State of Hawaii, as M. L. No. 2853, in favor of LONE STAR INDUSTRIES, INC., re: claim for payment in the sum of \$13,430.21.

PURCHASE MONEY HANDLING: A copy of the Sales Contract and the executed Escrow Agreement dated January 9, 1975, 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 disbursements 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. Reliance Realty & Management, whose principal place of business is 1661 Kapiolani Boulevard, Honolulu, Hawaii, has been named as the initial Managing Agent. Compensation to Agent shall be SIX DOLLARS (\$6.00) per unit per month.

MONTHLY ASSESSMENTS FOR UNSOLD UNITS: The Developer states that there shall be no monthly maintenance charges payable by the Developer for unsold apartment except charges for lease rent and real property taxes for unsold apartments until 80% of the units are sold. Apartment owners shall pay for their proportionate share of monthly maintenance upon issuance of their apartment lease. Developer shall also pay for its proportionate share of the maintenance of the grounds of the project until 80% of the units are sold and apartment leases issued. After such time, monthly maintenance shall be assessed each owner in accordance with the Declaration and By-Laws and the Developer shall pay for the monthly assessments for unsold units.

STATUS OF PROJECT: The Developer has commenced construction of the project. Construction will be completed on or about August, 1975.

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 April 29, 1975.

The PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 770 filed with the Commission on April 29, 1975.

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.



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

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Registration No. 770

May 9, 1975