

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

1010 RICHARDS STREET
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PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
WAILEA ELUA I
WAILEA, ISLAND OF MAUI

REGISTRATION NO. 814

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: November 3, 1975
Expires: December 3, 1976

SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that the 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:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED OCTOBER 10, 1975, AND INFORMATION SUBSEQUENTLY FILED AS OF OCTOBER 31, 1975. DEVELOPER IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL AND SUBMITTING INFORMATION ON THE PROJECT, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES ACT, CHAPTER 514, HAWAII REVISED STATUTES, AS AMENDED.

1. WAILEA ELUA I is a proposed fee simple condominium project consisting of Fifty-Four (54) residential apartments located in eight (8) separate two-story buildings and one (1) non-residential apartment located in a separate one-story building. There will be a total of sixty-eight (68) parking stalls including sixteen (16) stalls located within the structure of certain apartment buildings.

2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of the condominium project and the issuance of this Preliminary Public Report.
3. The Developer reports that the Declaration of Horizontal Property Regime and the By-laws of the Association of Apartment Owners, Supplemental Declaration No. 6 to the Declaration of Covenants and Restrictions (Wailea Elua I), Declaration of Trust, and the Condominium Map will be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii immediately prior to the application for a Final Public Report.
4. Advertising or promotional materials have been submitted to the Commission pursuant to its rules and regulations.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of the Hawaii Revised Statutes, Chapter 514, and the Rules and Regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, November 3, 1975, unless a Final Public Report or a Supplementary Public Report issues, or the Commission, upon review of registration, issues an order extending the effective date of this report.
7. This Preliminary Public Report is made a part of the registration of WAILEA ELUA I. The Developer has the responsibility of placing a true copy of this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt for the Preliminary Public Report from each purchaser.

NAME OF PROJECT: WAILEA ELUA I

LOCATION: The project is located at Wailea, Island and County of Maui, State of Hawaii, and consists of approximately 9.135 acres of land.

TAX KEY: Portion of 2-1-08-59 (2nd Tax Division - County of Maui).

ZONING: The property is presently zoned H-1 = Hotel and O = Open Space. The Developer has received planned development approval for the Project.

DEVELOPER: WAILEA DEVELOPMENT COMPANY, a Hawaii joint venture partnership between Wailea Land Corporation, 822 Bishop Street, Honolulu, Hawaii 96813, a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, a Wisconsin corporation, authorized to do business in the State of Hawaii. The partnership was registered in the State of Hawaii, Department of Regulatory Agencies, January 21, 1972. The business address of Wailea

Development Company is 841 Bishop Street, Honolulu, Hawaii 96813. Wailea Land Corporation is the managing partner and duly authorized agent of Wailea Development Company.

ATTORNEY REPRESENTING DEVELOPER: Alexander & Baldwin, Inc., Law Department (Attention: Carrie L. Lindahl) 822 Bishop Street, Honolulu, Hawaii 96801, telephone 525-8450.

DESCRIPTION OF PROJECT: The project consists of fifty-four (54) residential apartments contained in eight (8) two-story buildings numbered 7 through 14 and a one-story Beach Pavilion. The buildings will be principally of wood frame construction with stucco exteriors, shake roofs and concrete slab ground floors with wood frame upper floors.

The Beach Pavilion will consist of a single non-residential apartment containing approximately 1,088 square feet of interior floor area including locker rooms, dressing rooms, shower and toilet facilities, janitors closet, pool equipment room and office, and exterior trellised and roofed patio areas of approximately 3,022 square feet, including kitchenette and bar.

Buildings 7 through 14 are all two stories high containing various combinations of two or more of the five (5) different types of apartments described below ranging from single level one bedroom, one bath apartments to split-level three-bedroom, three-bath townhouse apartments.

There are twelve (12) Type "A" apartments which are one bedroom, one bath apartments, each containing approximately 891 square feet of interior floor area, including a living/dining room, kitchen, bedroom and bathroom plus one lanai containing approximately 269 square feet.

There are thirteen (13) first floor Type "B" apartments which are two-bedroom, two-bath apartments, each containing approximately 1,259 square feet of interior floor area, including living room, dining room, kitchen, two bathrooms and two bedrooms, plus two lanais containing an aggregate of approximately 118 square feet.

There are thirteen (13) second floor Type "B" apartments which are two-bedroom, two-bath apartments, each containing approximately 1,259 square feet of interior floor area including a living room/dining room, kitchen, two bedrooms and two bathrooms, plus two lanais containing an aggregate of approximately 240 square feet.

There are four (4) Type "C" apartments which are two-bedroom, two-bath apartments, each containing approximately 1,416 square feet of interior floor area including a living room/dining room, kitchen, two bedrooms and two bathrooms, plus two lanais containing an aggregate of approximately 304 square feet.

There are eight (8) Type "D" apartments which are three-bedroom, two-bath apartments, each containing approximately 1,609 square feet of interior floor area including a living room, dining room, kitchen, three bedrooms and two bathrooms, plus two lanais containing an aggregate of approximately 321 square feet.

There are four (4) Type "E" apartments which are three-bedroom, three-bath townhouse apartments, each containing approximately 1,749 square feet of interior floor area including on the lower floor, a living room, dining room, kitchen, bath and one bedroom, and on the upper floor, two bedrooms and two bathrooms plus two lanais on the second floor and one lanai on the first floor containing an aggregate total of approximately 481 square feet.

Each townhouse and lower floor apartment has access to the common elements at the ground level. Each upper level apartment has access via an entryway and staircase to the common elements at ground level.

Each residential apartment will have drapes and will be carpeted throughout except for the kitchens and bathrooms which will have tile. Each residential apartment will have a range and oven combination, two-door refrigerator freezer, disposal, dishwasher, water heater, compactor, washer and dryer and an open air duct system for optional air conditioning system.

LIMITS OF APARTMENTS: The respective apartments shall not be deemed to include the undecorated or unfinished walls, the floors and ceilings surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include any adjacent lanais; and the individual parking areas serving Apartments 701 through 708 and 801 through 808 respectively as limited common elements to each of those apartments only as shown on the Floor Plans. 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 the built-in fixtures.

The project also contains driveways and parking areas containing 68 parking stalls including 16 stalls located within the structure of certain buildings (indicated herein as limited common elements), one swimming pool, barbecue area containing three gas barbecues and one paddle tennis court.

COMMON ELEMENTS: The common elements will include all portions of the land and improvements other than the respective apartments. In other words, common elements will include the apartment buildings, the land on which all apartment buildings are located, and all common elements mentioned in the Horizontal Property Act which are actually constructed on the land described herein, and specifically shall include, but shall not be limited to:

- (a) Said land in fee;
- (b) All foundations, supports, bearing walls and exterior stairs, landings and entranceways of said buildings;
- (c) All roofs;
- (d) The gatehouse, bridge, belvedere, all housekeeping stations, yards and refuse areas;
- (e) All ducts, electrical equipment, wiring and other central and appurtenant installations for services, including power, light, cold and hot water, refuse and telephone;

- (f) All parking stalls other than those within certain apartment structures;
- (g) One swimming pool adjacent to the Beach Pavilion; gas barbecue area containing three gas barbecues adjacent to the Beach Pavilion and one paddle tennis court;
- (h) All other devices or installations upon the land existing for or normally in common use to all the owners of apartments within the project;

LIMITED COMMON ELEMENTS: Limited common elements and apartments to which their use is reserved are:

- (a) Exterior staircases, landings and entranceways shall be limited common elements for the exclusive use of the apartments they serve.
- (b) All trellis-covered privacy area adjacent to an apartment and any of those individual parking areas serving only a specific apartment as designated herein shall be a limited common element for the exclusive use of that apartment.

PERCENTAGE OF UNDIVIDED OWNERSHIP TO BE CONVEYED: The following types of apartments have the percentage of common interest shown below:

<u>Type</u>	<u>Percentage Interest</u>
A	1.2720
B	1.7974
C	2.0215
D	2.2971
E	2.4970
Beach Pavilion	1.5526

The aggregate percentage of undivided interest in the common elements of the apartments is allocated between them on the basis of their interior floor area. The Developer covenants and agrees that the undivided interest in the common areas and facilities and the titles to the respective apartments to be conveyed shall not be separated or separately conveyed and each said undivided interest shall be deemed to be conveyed or encumbered with its respective apartment even though the description in the instrument of conveyance may refer only to one or other of the interests.

APARTMENT OWNERS ASSOCIATION: The Declaration of Horizontal Property Regime will provide for the organization of the Association of Apartment Owners, an unincorporated association responsible for the management, operation and maintenance of the common elements within the Project and to provide certain services for all the owners of the apartments within the Project. All apartment owners in the Project will be members of the Association of Apartment Owners and will be obliged to pay assessments levied by the Association in accordance with the By-laws of the Association to be filed with the Declaration of

Horizontal Property Regime. The voting rights of apartment owners, as well as their share of the common expenses shall be in proportion to their common interest.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE: The fifty-four (54) residential apartments hereinabove described shall at all times be used as permanent or temporary residences and for no other purpose. The Beach Pavilion will be held in trust for all of the owners of apartments in all phases of Wailea Elua as provided in the Declaration of Trust which will be recorded at the time the Declaration of Horizontal Property Regime is recorded.

OWNERSHIP OF TITLE: The Preliminary Report by Title Guaranty of Hawaii, Incorporated dated October 1, 1975, states that fee simple title to the land is held by Developer as shown on Transfer Certificate of Title No. 156986 issued to Developer.

ENCUMBRANCES: The Preliminary Report of Title Guaranty of Hawaii, Incorporated dated October 1, 1975, shows title to the property to be subject to the following encumbrances:

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. For any property taxes due and owing, reference is made to the Office of the Tax Assessor, Second Division.

The Project will also become subject to a Declaration of Covenants and Restrictions filed as Land Court Document No. 713123 which provides for the organization of the Wailea Property Owners Association, a non-profit corporation established to own and maintain certain property and to provide certain services for all the owners of property at Wailea, Maui, including condominium apartment owners, hotel operators and so forth. The Project will be annexed to the Wailea Property Owners Association by filing a Supplemental Declaration No. 6 (Wailea Elua I). All apartment owners in the project will be obliged to pay assessments levied by the Association. The Declaration of Covenants and Restrictions also provides for the establishment of a community design committee which shall have the authority to approve or disapprove any proposed construction or alteration of property which is subject to the Declaration of Covenants and Restrictions. Developer does not represent that any common property will in fact be granted to the Wailea Property Owners Association nor that any additional property will in fact be annexed to the Declaration.

MERGER: Prior to issuance of a Final Report for this project, Developer will place on record a Declaration as to Merger of Increments in a Condominium Project (Wailea Elua I), a copy of which has been filed with and which is available for public inspection at the Office of the Real Estate Commission and will affect the project and approximately 13.430 acres of additional property. This Declaration as to Merger permits Developer to merge up to two additional condominium projects (shown on the condominium map as Phase II and Phase III) with this project for purposes of administration and use. Developer does not represent that Phases II and III will be developed or that, if developed, they will be merged.

RESTRICTIONS AND OBLIGATIONS:* The Purchaser should note that the Purchase Agreement, Declaration as to Merger and Apartment Deed prohibit the apartment owners in any of the phases of the Wailea Elua development from entering into a rental pool or other rental sharing agreement until after all phases of the Elua development have been completed and sold.

Prospective purchasers are advised to carefully examine the form of Declaration of Horizontal Property Regime, Declaration as to Merger and Declaration of Covenants and Restrictions so that they may familiarize themselves with the restrictions and obligations to which they will be subject.

PURCHASE MONEY HANDLING: A copy of the specimen Purchase Agreement and an Escrow Agreement have been submitted as part of the registration. The Escrow Agreement dated October 8, 1975, identifies Title Guaranty Escrows, Inc. as the "Escrowee" and provides for release of purchasers' funds from escrow.

Upon examination, the Purchase Agreement and the executed Escrow Agreement are found to be in compliance with Chapter 514, Hawaii Revised Statutes, and particularly with Section 514-35 and Section 514-36 through 514-40, Hawaii Revised Statutes. A prospective purchaser should carefully examine the form of Purchase Agreement and Escrow Agreement to determine the time for and the amount of the installment payments on the purchase price and the sharing of the closing costs, as well as the manner in which funds held in trust may be disbursed. The executed Escrow Agreement provides in part, that, a Purchaser shall be entitled to a return of his funds, and Escrowee shall pay such funds to such Purchaser, Buyer, together with any interest earned thereon and less the cancellation fee imposed by Escrowee, as hereinafter provided, promptly after request for return by Purchaser if any one of the following has occurred:

- (a) Seller has requested Escrowee in writing to return to Purchaser the funds of Purchaser then being held hereunder by Escrowee; or
- (b) Seller has notified Escrowee of Seller's exercise of the option to rescind the Purchase Agreement of the Purchaser pursuant to any right of rescission stated therein or otherwise available to Seller; or
- (c) Purchaser's funds were obtained prior to the issuance of a Final Public Report for the Project and either (i) such Final Public Report differs in any material respect from the Preliminary Public Report for the Project, or (ii) there is any change in the condominium building plans subsequent to the execution of the Purchase Agreement requiring approval of a county officer having jurisdiction over issuance of permits for construction of buildings, unless in any such case the Purchaser has given written approval or acceptance of the specific differences and/or changes; or

*NOTE: The Declaration of Horizontal Property Regime provides that the Declaration of Covenants and Restrictions and the Declaration as to Merger shall control if there is any conflict with the Declaration of Horizontal Property Regime.

- (d) Final Public Report for the Project is not issued within one (1) year of the date of the issuance of the Preliminary Public Report for the Project; or
- (e) Construction of Purchaser's Apartment has not been completed within twenty-four (24) months from the date of his Purchase Agreement (subject to delays beyond Seller's control); or
- (f) With respect to purchasers who are residents of California, if within one (1) year from the date of issuance of the California Permit and Public Report for Out-of-State Subdivisions construction of the project has not been completed and Seller is unable to show to the satisfaction of the State of California Real Estate Commissioner that it is reasonable to expect construction of the project to be completed within the following six (6) months.

Upon return of such funds to Purchaser, Escrowee shall return to Seller Purchaser's Purchase Agreement and any conveyancing documents theretofore delivered to Escrowee; and thereupon Purchaser shall no longer be obligated under the Purchase Agreement. The Purchase Agreement provides in part, that purchasers should be aware that the Seller's mortgage loan (interim, renewals and extensions) used for the construction of the project shall be and remain at all times a superior lien on the project, and purchasers intentionally waive and subordinate the priority of any lien under the Purchase Agreement in favor of the mortgage loan.

It is incumbent upon the purchaser and the prospective purchaser that he reads with care the Purchase Agreement and the executed Escrow Agreement. The latter establishes how the proceeds from the sale of apartments are placed in trust, as well as the retention and disbursement of said trust fund.

MANAGEMENT AND OPERATION: Article III, Section 3, of the By-laws of the Association of Apartment Owners states that the Board of Directors shall at all times employ a responsible managing agent to manage and control the property subject at all times to direction by the Board of Directors.

STATUS OF PROJECT: Final plans and specifications for the Project are being prepared and construction financing arrangements are being finalized. Developer has applied for subdivision and planned development approval for the Project. Developer is in the process of negotiating the construction contract and expects to commence construction approximately November 1, 1975 and to complete construction approximately November 1, 1976.

The purchaser or prospective purchaser should be cognizant of the fact that this Public Report represents information disclosed by the Developer in the required Notice of Intention submitted October 10, 1975, and information subsequently filed as of October 31, 1975.

This PRELIMINARY HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 814, filed with the Commission on October 10, 1975.

The report, when reproduced, shall be a true copy of the Commission's Public Report. Paper stock used in making facsimilies must be yellow.


(for) DOUGLAS R. SODEHANI, Chairman
Real Estate Commission
State of Hawaii

Distribution:
Department of Taxation
Planning Department, County of Maui
Escrow Agent
Federal Housing Administration
Bureau of Conveyances

Registration No. 814

November 3, 1975.