

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 GARDEN COURT, PHASE I
Kamahao and Hookanike Streets
Wai'au, Ewa, Hawaii

REGISTRATION NO. 1038

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: May 16, 1979
Expires: June 16, 1980

SPECIAL ATTENTION

A comprehensive reading of this 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 SEPTEMBER 20, 1978 AND INFORMATION SUBSEQUENTLY FILED AS OF APRIL 30, 1979. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY REGIMES LAW, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Public Report of October 13, 1978, the Developer reports that changes have been made in the plan or setup as presented in the September 20, 1978 notice of intention to sell.

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 basic documents (Declaration of Horizontal Property Regime, with By-Laws of Association of Apartment Owners attached, and a copy of approved floor plans) have been recorded in the office of the recording officer. The Declaration and attached By-Laws dated April 12, 1979 have been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13637 at Page 638. Condominium Map No. 605 has been assigned to the project.
4. Advertising and promotional matter required to be filed pursuant to the rules and regulations promulgated by the Commission will be submitted prior to public dissemination.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
6. This Final Public Report is made a part of the registration on WAI'IAU GARDEN COURT, PHASE I condominium project. The Developer has the responsibility of placing a true copy of this Final Public Report (white paper stock) along with a 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 both Public Reports from each purchaser or prospective purchaser.
7. This Final Public Report automatically expires thirteen (13) months from the date of issuance, May 16, 1979, unless a supplementary report is published or the Commission, upon review of the registration, issues an order extending the effective period of this report.

The information under the topical headings of the Preliminary Public Report of October 13, 1978 remains unchanged except as hereinafter set forth. The following sections or portions thereof are hereby amended (the changes are underlined to aid purchasers in reviewing this report as it differs from the information in said Preliminary Public Report):

DESCRIPTION OF PROJECT: Paragraph (a) under this topical heading has been amended as follows:

(a) There are thirty-seven (37) freehold estates in the spaces within the perimeter walls, floors and ceilings of the 37 apartments in said buildings. The 37 apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or of the interior load-bearing walls, the floors and perimeter

ceilings surrounding each apartment, or any pipes, wires, ducts, conduits, or other utility or service lines running through such apartments which are utilized for or serve more than one apartment, all of which are common elements as provided in the Declaration. Each apartment shall be deemed to include the walls and partitions which are not load-bearing and which are within its perimeter walls; doors and door frames; windows and window frames; the inner decorated or finished surfaces of walls, floors and ceilings, adjoining and connected thereto; lanai; porch; and all fixtures originally installed therein.

Notwithstanding the designation of the limits of the apartments, the square footage of each respective apartment as enumerated below is measured from the exterior face of exterior walls and the center line of party walls, and no reduction is made to account for interior load bearing walls, ducts, vent shafts and the like, located within the perimeter walls.

COMMON ELEMENTS: Paragraph (f) has been amended as follows and a new paragraph (g) added:

(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, Waiiau Gardens Kai, Unit G-11, situate on Lot 2, File Plan No. 1415 and all of the owners of apartments in the condominium projects proposed to be developed on Lots 2, 3, 4, 5 and 6 of File Plan 1592 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 Lessor and Developer or their lessee thereof. In the event that the said Lot 5 shall be conveyed to or condemned by the City and County of Honolulu, this easement shall automatically terminate.

(g) An easement for park and recreational purposes in common with owners of apartments in the condominium projects proposed to be developed as Phases II, III, IV, V and VI, Waiiau Garden Court, on Lots 2, 3, 4, 5 and 6, respectively, of File Plan 1592, in the open area of approximately 14,831 square feet located in said Phases I, II and III and shown on the Condominium Maps for said projects, subject to and with the benefit of that certain Declaration of Restrictive Covenants, a form of which is attached to said Declaration as Exhibit "E", which form may be amended as required by the City and County of Honolulu, State of Hawaii, prior to execution and recordation. In the event that said open area shall be conveyed to or

condemned by the City and County of Honolulu, this easement shall automatically terminate.

LIMITED COMMON ELEMENTS: Paragraph (a) has been amended as follows:

(a) One (1) or more automobile parking spaces shall be assigned to each of the apartments upon the original conveyance thereof and shall be appurtenant to and for the exclusive use of such apartment. The initial parking space assignment for each apartment is shown in Exhibit "A" attached hereto and made a part hereof. 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.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: Paragraphs (a) and (c) have been amended as follows:

(a) The common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby and Lessor except that apartment owners shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the Declaration. Such amendment shall be effective only upon recording or filing of the same with the Bureau of Conveyances.

(c) The apartments shall be occupied and used only for residential purposes and no apartment shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The respective apartments shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental in which the occupants of the apartment are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the owners of the respective apartments shall have the absolute right to lease same provided that said lease is made subject to the covenants and restrictions contained in the Declaration and further subject to the By-Laws and Regulatory Agreement.

MERGER OF ADDITIONAL INCREMENTS: The following paragraphs in the Declaration and Preliminary Public Report are amended as follows:

"(18.1) Any provision of this Declaration to the contrary notwithstanding, the Lessor and Developer shall have the right at their option to amend the project, by way of merger, as hereinafter provided, at any time up to, but not later than October 1, 1985, the construction and addition to the Project of one hundred forty (140) additional apartments, together with such supporting and servicing common elements which the Lessor and Developer

determine in their discretion are beneficial to the project, on up to an additional approximate 285,545 square feet of adjoining land, being Lots 2 through 6 of File Plan 1592; such additions may be added in five increments as follows:

(1) Phase II. Approximately thirty-one (31) apartments on Lot 2 of File Plan 1592, containing an area of approximately 59,821 square feet.

(2) Phase III. Approximately twenty-seven (27) apartments, on Lot 3 of File Plan 1592, containing an area of approximately 62,050 square feet.

(3) Phase IV. Approximately thirty-two (32) apartments on Lot 4 of File Plan 1592, containing an area of approximately 70,922 square feet.

(4) Phase V. Approximately thirty (30) apartments on Lot 5 of File Plan 1592, containing an area of approximately 61,038 square feet.

(5) Phase VI. Approximately twenty (20) apartments on Lot 6 of File Plan 1592, containing an area of approximately 31,714 square feet."

"(18.4) The percentage of common interest of each apartment upon merger with an additional phase shall be as provided in said Exhibit 'B'."

ENCUMBRANCES AGAINST TITLE: The Developer has filed with the Commission an updated Preliminary Report by Title Guaranty of Hawaii, Incorporated dated April 25, 1979. Said Preliminary Title Report reports that title to the land is subject to the following:

1. For real property taxes that may be due and owing, reference is hereby made to the Office of the Tax Assessor, First Division.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

3. Easement "1" (9.50 feet wide) for electrical purposes, situate at the North corner of Lot 1, as shown on File Plans Nos. 1317 and 1592.

4. Terms, agreements, reservations, covenants, conditions and provisions contained in Lease No. 22,870 between TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, as Lessor, 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 Lessee, dated December 7, 1973, recorded in the Bureau of Conveyances of Hawaii in Liber 9652 at Page 367.

5. Agreement for Issuance of Special Use Permit Under Ordinance No. 4451, Bill No. 40 (1975) dated August 23, 1978, recorded in said Bureau of Conveyances in Liber 13199 at Page 223.

6. Covenants, conditions, restrictions, easements, reservations and all other provisions set forth in Declaration of Horizontal Property Regime dated April 12, 1979, recorded in said Bureau of Conveyances in Liber 13637 at Page 638, and the By-Laws attached thereto, as the same are or may hereafter be amended in accordance with law, said Declaration or By-Laws. (Project covered by Condominium Map No. 605.)

PURCHASE MONEY HANDLING. The first paragraph is amended as follows:

A copy of the Specimen Sales Contract and Amendment to Sales Contract and the executed Escrow Agreement dated September 5, 1978 have been submitted as part of the registration. The Escrow Agreement identifies Title Guaranty Escrow Services, Inc. as the Escrow. Upon examination, the Sales Contract and Amendment to Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. It is incumbent upon the purchaser and prospective purchaser that he reads with care the Sales Contract and Amendment to Sales Contract and the executed Escrow Agreement. The latter agreement establishes how 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. The former provides that purchaser's rights under the Sales Contract are subordinate to any interim or construction mortgages and that purchaser must be qualified under FHA inasmuch as this is an FHA project.

WAIU GARDENS KAI RECREATION ASSOCIATION: The "NOTE" is amended as follows:

NOTE: The common expenses of Lot 5 shall include a proportionate share of all reasonable expenses of maintenance, operation, repair, replacement, insurance, rent, real property taxes and assessments of the proposed park and recreational facilities thereon, for which all apartment owners shall be liable in equal shares (and not in the proportionate shares as set forth in Exhibit "B" attached hereto) with all other apartment owners of the project and with all other apartment owners of the condominium projects known as Waiau Gardens Kai, Unit "B" on Lot 2, area 438,442 square feet, and Waiau Gardens Kai, Unit "A" on Lot 3, area 437,616 square feet, as shown on File Plan 1305; Waiau Gardens Kai, Unit "E" on Lot 1, area 379,602 square feet, and Waiau Gardens Kai, Unit "D" on Lot 2, area 401,924 square feet, as shown on File Plan 1317; Waiau Gardens Kai, Unit "G-1" on Lot 1, area 202,517 square feet, and Waiau Gardens Kai, Unit "G-II" on Lot 2, area 257,350 square feet, as shown on File Plan 1415, (being a portion of Lot 1, File Plan 1305); the

projects to be known as Waiiau Garden Court, Phases II, III, IV, V and VI, as provided in Paragraph 18 of the Declaration located on Lots 2, 3, 4, 5 and 6, respectively, as shown on File Plan 1592; and the condominium projects proposed to be developed on Lot 2, area 425,232 square feet, as shown on File Plan 1366 (being a portion of Lot 1, File Plan 1305); provided, however, that until the completion of the uncompleted condominium projects on Lots 2, 3, 4, 5 and 6, File Plan 1592 and Lot 2, File Plan 1366, such apartment owners shall pay in equal shares all expenses of the recreation center.

PARK AND RECREATION AREA: As set forth in the Declaration, an area containing approximately 14,831 square feet and which is a part of Lots 1, 2 and 3, File Plan 1592, will be restricted for use as a park and playground for all occupants of Phases I through VI, Waiiau Garden Court, as required by Rule 10 of the Park Dedication Rules and Regulations of the City and County of Honolulu, State of Hawaii, adopted pursuant to Ordinance 4621 of the City and County of Honolulu, and that all apartment owners will contribute proportionately according to their common interest to the perpetual maintenance of the park. The restrictions and obligations of apartment owners are set forth in that certain Declaration of Restrictive Covenants, a form of which is attached to the Declaration as Exhibit "E". Lessor and Developer reserve the right to amend said Declaration of Restrictive Covenants as required by the City and County of Honolulu, State of Hawaii, prior to execution and recordation.

STATUS OF PROJECT: The Developer advises that the estimated date of completion of all apartments in the project is on or about June 1, 1979.

A new section entitled "SEWER EASEMENT" is hereby added as follows:

SEWER EASEMENT: The Apartment Lease form for the project provides that each owner shall have a non-exclusive easement to construct, install, maintain, operate, repair and remove an underground sewer pipe line or pipe lines together with the right of ingress to and egress from the easement areas for the purposes aforesaid over a portion of Lot 3, as shown on File Plan 1305 filed in said Bureau of Conveyances; SUBJECT, HOWEVER, to the rights of the owners and lessees of Lot 3, File Plan 1305, and Lots 1 through 6, inclusive, File Plan 1592 (said Lots 1 through 6 of File Plan 1592 being all of Lot 3 of File Plan 1317), as to said sewer easements, it being understood and agreed that the owners and lessees of said Lot 3, File Plan 1305, and Lots 1 through 6, File Plan 1592, may jointly install, maintain, operate, repair and remove the sewer pipe line or lines in the easement areas and in the event of such joint use, the costs of such use shall be borne by the Association of Apartment Owners of Waiiau Gardens Kai, Unit "A" (Lot 3, File Plan 1305) and the Association of Apartment Owners of Waiiau Garden Court, Phases I through VI, inclusive (Lots 1 through 6, File Plan 1592, respectively), as a common expense, in proportion to the number of apartments in each of said

projects serviced by said sewer line or lines. Said easement shall automatically terminate in the event of dedication to the City and County of Honolulu.

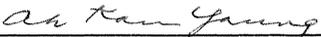
EXHIBITS: The Developer has advised that with respect to Exhibit "A", references to privacy yard areas in the "Description of Models" should be deleted as such privacy yard areas are limited common elements as set forth in the Declaration. With respect to Exhibit "B", the Developer advises that one apartment in Phase V will be the manager's apartment and shall be a common element.

An Exhibit "A" reflecting initial parking space assignments has been added and is attached hereto.

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 September 20, 1978 and information subsequently filed as of April 30, 1979.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1038 filed on September 20, 1978.

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 in color.



AH KAU YOUNG, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

Department of Taxation
Bureau of Conveyances
Department of Planning, City and
County of Honolulu
Federal Housing Administration
Escrow Agent

Registration No. 1038

Dated: May 16, 1979

EXHIBIT "A"

WAI'AU GARDEN COURT, PHASE I
INITIAL PARKING SPACE ASSIGNMENT

| <u>APARTMENT NO.</u> | <u>PARKING SPACE(S) NO(S).</u> |
|----------------------|--------------------------------|
| 1* | 16 and 17 |
| 2 | 2 |
| 3 | 1 |
| 4 | 3 |
| 5 | 45 |
| 6 | 39 and 40 |
| 7 | 18 |
| 8 | 19 |
| 9 | 4 |
| 10 | 34 |
| 11 | 37 and 38 |
| 12 | 33 |
| 13 | 46 |
| 14 | 42 |
| 15 | 36 |
| 16 | 41 |
| 17 | 35 |
| 18 | 32 |
| 19 | 43 and 44 |
| 20 | 29 and 30 |
| 21 | 22 |
| 22 | 24 |
| 23 | 26 |
| 24 | 9 and 10 |
| 25 | 23 |
| 26 | 25 |
| 27 | 6 |
| 28 | 12 and 13 |
| 29 | 27 and 28 |
| 30 | 7 |
| 31 | 20 |
| 32 | 11 |
| 33 | 31 |
| 34 | 8 |
| 35 | 21 |
| 36 | 5 |
| 37 | 14 and 15 |

*NOTE: In addition to the parking spaces noted above, Parking Space No. 47 (1 space), and Parking Spaces Nos. 61 through 76, inclusive (16 spaces), are hereby assigned to Apartment No. 1 in this Phase I. Developer reserves the right to transfer said Parking Space 47 and Parking Spaces Nos. 61 through 76, inclusive, from said Apartment No. 1 to the apartments in Phase II to which such parking spaces are to be appurtenant by way of an amendment to the Declaration for Phase I.