

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

WAIPIOLANI
95-023 Waihau Street
Wahiawa, Oahu, Hawaii

REGISTRATION NO. 1221

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: February 8, 1980
Expires: March 8, 1981

SPECIAL ATTENTION

A comprehensive reading of this report by the prospective purchaser is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED DECEMBER 28, 1979 AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED WITH THE COMMISSION AS OF JANUARY 29, 1980. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. WAIPOLANI is a proposed fee simple condominium project consisting of six (6) separate existing one (1) story and two (2) story buildings containing forty-one (41) residential apartments.

There will be a total of fifty (50) open parking spaces of which forty-one (41) are assigned one to each purchased apartment as limited common elements, and nine (9) guest parking spaces as part of the common elements. The assignment of parking space for each apartment is shown in this Report under the heading DESCRIPTION, and also on the Condominium Map along with the location of each parking space.

2. The Developer of the Project has submitted to the Commission for examination all documents deemed necessary for the registration of this condominium project and the issuance of this Preliminary Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners and a copy of the approved Floor Plans) have not yet been recorded in the office of the recording officer.
4. No advertising or 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 514A, Hawaii Revised Statutes, as amended, and the rules and regulations of the Hawaii Real Estate Commission which relate to Horizontal Property Regimes.
6. The Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, February 8, 1980, unless a Final or Supplementary Public Report is published, or the Commission, upon review of the registration, issues an order extending the effective date of this report.
7. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) together with Disclosure Abstract in the hands of all purchasers and prospective purchasers, and for securing a signed receipt therefor from each purchaser and prospective purchaser.

NAME OF PROJECT: WAIPOLANI

LOCATION: The approximate 57,500 square feet of land committed to the Project is located in Waipio, District of Ewa, City and County of Honolulu, State of Hawaii.

TAX KEY: First Division, 9-5-9-39.

ZONING: B-2 and R-4, under the ordinances of the County of Honolulu.

DEVELOPER: WAIPOLANI JOINT VENTURE, a Hawaii joint venture, whose principal place of business is 733 Bishop Street, Suit 2600, Honolulu, Hawaii 96813 (Telephone No. 536-6967). The General Partners of the joint venture are as follows:

Real Estate Creations, Ltd. (Hawaii corporation)	733 Bishop Street Suite 2600 Honolulu, Hawaii 96813
Binkert & Kaye Properties (California partnership)	438 Camino Del Rio So. #216 San Diego, California
95-023 Waihau Street Associates (California limited partnership)	95-023 Waihau Street Honolulu, Hawaii
Linda Ann Sweedler	6473 Avenida Costa La Jolla, California

ATTORNEY REPRESENTING DEVELOPER: Torkildson, Katz, Jossem & Loden; (Attention: THOMAS A. BODDEN), Suite 1512, Amfac Building, 700 Bishop Street, Honolulu, Hawaii 96813 (Telephone No. 521-1051).

DESCRIPTION: The proposed Declaration of Horizontal Property Regime and the plans submitted by the Developer reflect that the Project is to consist of forty-one (41) residential apartments, arranged throughout six (6) separate apartment buildings designated "A", "B", "C", "D", "E", and "F" Buildings.

Forty (40) of the apartments, namely all apartments in Buildings A, B, C, D, and E, are two-bedroom, one-bath apartments, consisting of a combination living and dining room, two bedrooms, one bathroom and a kitchen, and shall contain an enclosed floor area of approximately 620 square feet.

One (1) of the apartments, namely the one contained in Building F, shall consist of one-bedroom, one-bath, a living-dining area and kitchen. It shall have an enclosed floor area of approximately 550 square feet.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls, the interior load-bearing walls, the floor and ceiling which surround each apartment, the foundations, columns, girders, beams, supports, common entries and roofs, or any pipes, shafts, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include all the walls and partitions which are within its perimeter walls and not load-bearing, the inner decorated or finished surfaces of all walls, floors and ceilings, and all air space encompassed within the apartment.

Each building is constructed principally of reinforced concrete block, pre-stressed concrete slabs, glass and wood, with pitch and gravel roofs.

Each apartment's undivided percentage interest in the common elements, and the number of its assigned parking space are as follows:

<u>Apt. No.</u>	<u>Percentage of common interest</u>	<u>Assigned Parking Space No.</u>	<u>Apt. No.</u>	<u>Percentage of common interest</u>	<u>Assigned Parking Space No.</u>
A-101	2.45	2	D-131	2.45	10
A-102	2.45	3	D-132	2.45	13
A-103	2.45	6	D-133	2.45	14
A-104	2.45	7	D-134	2.45	15
A-201	2.45	4	D-231	2.45	11
A-202	2.45	5	D-232	2.45	16
A-203	2.45	8	D-233	2.45	17
A-204	2.45	9	D-234	2.45	18
B-111	2.45	37	E-141	2.45	36
B-112	2.45	40	E-142	2.45	35
B-113	2.45	44	E-143	2.45	29
B-114	2.45	46	E-144	2.45	30
B-211	2.45	38	E-241	2.45	34
B-212	2.45	39	E-242	2.45	33
B-213	2.45	43	E-243	2.45	31
B-214	2.45	45	E-244	2.45	32
			F-1	2.0	12
C-121	2.45	19			
C-122	2.45	21			
C-123	2.45	25			
C-124	2.45	27			
C-221	2.45	20			
C-222	2.45	22			
C-223	2.45	26			
C-224	2.45	28			

COMMON ELEMENTS: The proposed Declaration reflects that the common elements shall include the limited common elements as described hereinafter, and all other portions of the Project other than the apartments, including specifically but not limited to:

- (a) The land in fee simple.
- (b) All foundations, floor slabs, columns, girders, beams, supports, bearing walls, roofs, corridors, stairs, walkways, offices, machine and equipment rooms and/or storage rooms.
- (c) All yards, grounds, landscaping, and recreational facilities.
- (d) All driveways, walkways and parking areas and nine (9) guest parking spaces.

- (e) All central and appurtenant installations for utilities and/or services such as power, light, telephone, gas, water, television, sewage disposal, and all ducts, electrical equipment, tanks, pumps, motors, fans, compressors, pipes, wiring and other apparatus and installations existing for common use.
- (f) All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS: Certain parts of the common elements, herein called and designated "limited common elements", are set aside and reserved for the exclusive use of certain apartments, and such apartments, shall have appurtenant thereto exclusive easements for the use of such limited common elements.

There shall be appurtenant to each apartment, as a limited common element, the parking space assigned to each apartment as set forth hereinabove under DESCRIPTION, and the same shall be reserved for the exclusive use and benefit of such apartment.

There shall be appurtenant to each apartment, to be shared in common with the adjoining apartment (Apartment A-101 with A-102; A-103 with A-104, etc.) a utility closet to house a water heater and other electrical and/or mechanical apparatus. Each such utility closet shall be located between the two apartments to which it is appurtenant, as shown on the Map, and shall be reserved for the exclusive use and benefit of those two apartments. No such utility closet shall be appurtenant to Apartment F-1. Each water heater located in each such utility closet shall not be deemed common elements; but shall be owned by, and be the responsibility of, the owner of the apartment served by said heater.

All costs and expenses of every description pertaining to a limited common element including but not limited to the cost of the maintenance, repair and replacement thereof, and the making of any additions and improvements thereto, shall be charged to the owner(s) of the apartment(s) to which said limited common element appertains.

INTEREST TO BE CONVEYED TO PURCHASER: Each purchaser of an apartment shall receive a Condominium Conveyance Document which shall convey to such purchaser fee simple ownership of the apartment purchased by such purchaser together with an undivided interest in the Land included within the Project. The land interest of each purchaser shall be equal to the percentage interest in the common elements appurtenant to such purchaser's apartment.

The proposed Declaration provides that each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the Project as set forth hereinabove under DESCRIPTION and the same proportionate share in all common profits and expenses of the Project including voting.

PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE: The proposed Declaration provides that the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, licensees, families, domestic servants and social guests, and for no other purpose. The use of an apartment as the location of a business is expressly prohibited. The respective apartment owners shall have the absolute right to rent or lease their apartments, subject to all provisions of the Declaration, By-Laws, and House Rules.

An apartment owner shall not, without the prior written consent of the Board of Directors of the Association of Apartment Owners, make any structural alterations in or additions to the Apartment visible from the exterior of the Apartment, or make any alterations in or additions to the exterior of the Apartment or to any other portion or portions of the common elements unless otherwise provided in the By-Laws.

The House Rules provide, among others, (1) No pets, livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept on any part of the Project; (2) Bicycles, tricycles, skateboards and similar vehicles shall not be operated on walkways or sidewalks of the Project; and (3) Trailers, boats or abandoned vehicles shall not be parked or stored in the parking areas.

OWNERSHIP OF TITLE: A Preliminary Report issued on January 16, 1980, by Pacific Guaranty Title Corporation certifies that title to the property is held by Waipio Terrace, Ltd., a Hawaii corporation, subject to an Agreement of Sale dated August 16, 1978, to Linda Ann Sweedler, Binkert & Kaye Properties, and 95-023 Waihau Street Associates (three of the four members of the Developer Joint Venture) as Purchaser, filed with the Assistant Registrar of the Land Court or Land Court Document No. 893143 and also recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13086, Page 655.

The Developer intends to satisfy the above Agreement of Sale following the issuance of this Preliminary Public Report and the sale of not less than thirty-five (35) residential apartments.

ENCUMBRANCES AGAINST TITLE: Said Preliminary Report dated January 16, 1980, states that title to the property is subject to the following encumbrances:

1. Any taxes that may be due and owing and a lien on the land, reference is hereby made to the Office of the Tax Assessor of the First Division, City and County of Honolulu, Hawaii.
2. Reservation in favor of the State of Hawaii of all mineral and metallic Mines.
3. Restriction of access rights across Lots 1027-B and 1027-D, as shown on Map 52, as set forth by Land Court Order 13493, filed February 4, 1955.

4. Abutter's rights of vehicle access appurtenant to Lots 1027-B and 1027-D, into and from Kamehameha Highway across the common boundary between said Lots 1027-B and 1027-D and Lot 8-A-17-A-2; reserving the right to change and relocate and/or widen any or all points &c vehicle access &c, as set forth in Deed dated December 20, 1956, filed January 30, 1957, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 197831, and also recorded January 30, 1957, in the Bureau of Conveyances, State of Hawaii, in Book 3217, Page 65.
5. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions set forth in the Deed, dated June 27, 1957, filed June 28, 1957, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 203543.
6. Easement 178 for drainage purposes, across Lots 1027-A, 1027-C and 1027-D, as shown on Map 87, and set forth by Land Court Order No. 16606, filed October 15, 1958.
7. Easement across Lots 1027-A, 1027-B, 1027-C and 1027-D for public utilities purposes in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company set forth by Land Court Order No. 16606, filed October 15, 1958.
8. An Easement for drainage purposes in favor of the City and County of Honolulu, dated October 3, 1958, filed November 18, 1958, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 226467.
9. Easement 239 for sewer purposes and Easement 240 for water purposes, across Lots 1027-A, 1027-C and 1027-D, as shown on Map 107, and set forth by Land Court Order No. 18263, filed August 1, 1960.
10. Easement 240, across Lot 1027-D, for water purposes in favor of and appurtenant to Lot 1027-C, dated June 29, 1960, filed August 24, 1960, in the Office of the Assistant Registrar of the Land Court, State of Hawaii as Document No. 262004.
11. The condition that Lot A, unregistered land, shall be forever appurtenant to Lot 1027-D, as shown on Map 107 and shall always be conveyed with said Lot 1027-D whether or not specifically mentioned in such conveyances, dated June 29, 1960, filed August 24, 1960, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 262004, and also recorded August 24, 1960, in the Bureau of Conveyances, State of Hawaii, In Book 3904, Page 468.
12. Easement 267, across Lot 1027-A, for public utilities purposes, as shown on Map 142, and set forth by Land Court Order No. 19663, filed December 29, 1961.
13. An easement across Easement 267, for water purposes, in favor of the City and County of Honolulu, dated January 17, 1962, filed February 13, 1962, in the Office of the

Assistant Registrar of the Land Court, State of Hawaii, as Document No. 285728.

14. The following agreements as disclosed in an Agreement of Sale dated August 16, 1978, filed August 17, 1978, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 893143, and also recorded in the Bureau of Conveyances, State of Hawaii, in Book 13086, Page 655:

Unrecorded Agreement dated November 17, 1961 by and between Waipio Terrace, Ltd., a Hawaii corporation, and the City and County of Honolulu for purposes of the encroachment of a hollow tile fence over Drainage Easement 178;

Unrecorded Fencing Agreement dated March 2, 1973 in favor of the City and County of Honolulu for purposes of completing the Waipio Acres Channel Protective Fencing Project, together with maintenance thereof;

Any unrecorded Agreement with the City and County of Honolulu for purposes of constructing and maintaining a bridge for access purposes over and across Drain Easement 178.

15. Mortgage dated December 30, 1977, filed May 19, 1978, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 876265, and also recorded May 19, 1978, in the Bureau of Conveyances, State of Hawaii, in Book 12906, Page 30, to secure the repayment of \$600,000.00, and any additional advances and other amounts secured thereby, under the terms and provisions thereof,

Mortgagor: Waipio Terrace, Ltd., a Hawaii corporation.

Mortgagee: Grand Pacific Life Insurance Company, Limited, a Hawaii corporation.

16. Agreement of Sale dated August 16, 1978, filed August 17, 1978, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 893143, and also recorded August 17, 1978, in the Bureau of Conveyances, State of Hawaii, in Book 13086, Page 655, for the stated consideration of \$875,000.00, and on the terms and conditions therein contained, of the Fee Simple Estate.

Seller: Waipio Terrace, Limited, a Hawaii corporation.

Purchaser: Linda Ann Sweedler, unmarried, and Binkert & Kaye Properties, a registered general partnership, general partners of 95-023 Waihou Street Associates, a registered limited partnership.

Consent thereto by Grand Pacific Life Insurance Company, Limited, a Hawaii corporation.

NOTE: The Agreement of Sale, together with all existing mortgages, will be satisfied and released prior to the issuance of apartment deeds as required by law and the Developer's permanent lender.

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated December 14, 1979, between the Developer, as "Seller", and Pacific Islands Escrow, Ltd., as "Escrow", has been submitted to the Commission as part of the registration. On examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended, and particularly Sections 514A-37, 514A-39, 514A-40, and 514A-63 through 514A-66.

The provisions of the Escrow Agreement should be carefully read and understood. It provides, among others, that a purchaser shall be entitled to a return of his funds, and Escrow shall pay such funds to such purchaser, without interest, less cancellation fee of \$50.00, promptly after purchaser has requested such return if Escrow shall have received from Developer a written notice that any one of the following has occurred:

1. Developer shall have requested Escrow to return to purchaser the funds of purchaser then being held hereunder by Escrow; or
2. With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, there shall have been a change in the building plans requiring approval of a county officer having jurisdiction over the issuance of building permits except such changes as are specifically authorized in the Declaration of Horizontal Property Regime or by the terms of the sales contract or to which said purchaser has otherwise consented in writing; or
3. With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the Final Report differs in a material respect from the Preliminary Report, and the purchaser's written approval of such change shall not have been obtained; or
4. The Final Report shall not have been issued within one (1) year from the date of issuance of the Preliminary Report.

The provisions of the Sales Contract should also be carefully read and understood. It provides among other things, that:

1. Notwithstanding any other provision of this Agreement to the contrary, it is expressly understood and agreed that unless and until Seller: (i) obtains the issuance by the Real Estate Commission of the State of Hawaii of the Final Public Report on the Project; and (ii) has received from Buyer a fully executed receipt for the Final Public Report; and until Seller has obtained valid and enforceable (as determined by Seller in its sole discretion) sales contracts for at least seventy-five percent (75%) of the apartments in the Project, then the Sale Agreement shall represent only a reservation by the Buyer and shall not be binding upon Seller, and until such time, said Sales Agreement may be terminated at any time and without cause by Seller in its sole discretion. In the event of such termination, Seller shall cause Escrow to refund to Buyer all payments previously made by Buyer, and neither party

shall have any other or further liability. If the Sales Agreement is entered into after issuance of the Final Public Report, it shall be fully binding upon Buyer and Seller upon Buyer's signing a receipt for the Final Public Report.

2. Notwithstanding any other provisions in the Sales Agreement to the contrary, the project shall be completed within two (2) years of the date of the execution by Buyer of the receipt for the Final Public Report for the Project; provided, however, said two (2) year period shall be extended for any period of time during which Seller is actually and necessarily delayed in completing construction if said delay is caused by fire, earthquake, acts of God, the elements, war or civil disturbance, strikes or other disturbances, Government legislation controls, or economic controls making it impossible to obtain the necessary labor or materials or other matters or conditions beyond the control of Seller.
3. Buyer agrees to subordinate his interest to the lien(s) of any interim mortgage(s) securing loans obtained from any lender for the construction of the Project or to a revolving construction loan secured by a mortgage(s) and to any and all advances, whether contractual or voluntarily made pursuant to said mortgage, and to any and all sums which may become a lien pursuant to the terms of said mortgage or the construction loan agreement or any other agreement relating to said mortgage.
4. Buyer understands and agrees that Buyer may not and will not assign or transfer this Sales Contract or any of Buyer's rights hereunder, and that any assignment or transfer of this Sales Contract by Buyer shall be null and void and shall constitute a default of the Sales Contract by Buyer.
5. Seller and its agents and representatives make no representation or statement as to the rental or investment potential of the Property or income to be derived therefrom or any other economic benefit, including applicability of Federal or State tax laws, that may be derived from ownership or rental of the Property; and Buyer understands that (subject to limitations imposed by the Declaration, By-Laws and House Rules) Buyer is free to use the Property as Buyer chooses, and that Buyer may rent it, either directly or through any agent Buyer may select.

MANAGEMENT AND OPERATION: The By-Laws annexed to the proposed Declaration state that the Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Project and shall at all times employ a responsible managing agent to manage and control the property, subject at all times to discretion by the Board. The initial Managing Agent shall be Associated Management, a division of Johnson & Associates, Inc., subject to the provisions of Section 514A-84(a) of the Hawaii Horizontal Property Act, which states that a Developer can contract for this initial Managing Agent only for a term of one year, and that the contract must be terminable on sixty (60) days written notice.

STATUS OF PROJECT: The buildings included in the Project were constructed during the period 1960-1962, as an apartment complex. The Buyer should review the Disclosure Abstract and Sales Contract which state that:

1. The Buildings were built in compliance with zoning and building codes in effect at the time of their construction.
2. In the event of the destruction of any Building, reconstruction could not be made without a variance, and would have to comply with existing building and zoning codes.
3. There exists some damage to Building D(4).
4. All improvements on the Project are sold in "as is and where is" condition.

Completion of Building repairs and renovations is anticipated by March 15, 1980.

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 December 28, 1979 and information subsequently filed on January 29, 1980.

THIS PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1221 filed with the Commission on December 28, 1979.

This report, when reproduced, shall be a true copy of the Commission's Public Report. The paper stock used in making facsimiles shall be yellow in color.


AH KAU YOUNG, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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BUREAU OF CONVEYANCES
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FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

Registration No. 1221

Date: February 8, 1980