

REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS

STATE OF HAWAII

1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on
THE WESTBURY
1700 Ala Moana Boulevard
Honolulu, Hawaii

REGISTRATION NO. 1482

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: March 29, 1984

Expires: April 29, 1985

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 or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED JANUARY 22, 1982, AND INFORMATION SUBSEQUENTLY FILED AS OF March 23, 1984. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. Since the issuance of the Commission's Preliminary Report on February 19, 1982 on THE WESTBURY, Registration No. 1482, the Developer reports that certain material changes have been made in the project.
2. The Developer has submitted to the Commission for examination all documents deemed necessary for the

registration of the condominium project and the issuance of this Final Public Report.

3. The Declaration of Horizontal Property Regime has been filed in the Office of the Registrar of the Land Court as Document No. 1150624 on February 4, 1983. The By-Laws of the Association of Owners has been filed in the Office of the Registrar of the Land Court as Exhibit "C" to the Declaration of Horizontal Property Regime. The First Amendment was executed on January 9, 1984, filed as Document No. 1212765, and the Second Amendment was executed on January 23, 1984, filed as Document No. 1215909.
4. 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 the Horizontal Property Regime.
5. This Final Public Report automatically expires thirteen (13) months after the date of issuance, March 29, 1984, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.
6. This Final Public Report is made a part of the registration on THE WESTBURY Condominium Project. The Developer is responsible for placing a true copy of this Final Public Report (white paper stock) in the hands of all purchasers and prospective purchasers along with a copy of the Preliminary Public Report (yellow paper stock) and revised Disclosure Abstract dated February 23, 1984. The Developer is also responsible for securing a signed receipt therefor.

The information in the Preliminary Report of February 19, 1982, under the topical headings DESCRIPTION OF PROJECT, LIMITED COMMON ELEMENTS, INTEREST TO BE CONVEYED TO THE PURCHASER, USE AND RESTRICTIONS, OWNERSHIP OF TITLE, ENCUMBRANCES AGAINST TITLE, MANAGEMENT AND OPERATIONS and STATUS OF PROJECT has been changed. The Developer reports that all other information in the Preliminary Report remains the same.

DESCRIPTION OF PROJECT: The description of the project and apartments have been changed as follows:

A. BUILDING: There is an emergency room and a recreation/exercise room in the partial basement but there are no lockers, exercise room, or electrical room on that level. There are no storage areas/rooms on the four levels of parking. There is a mechanical equipment room above the numbered 40th floor in an enclosed roof area.

B. APARTMENTS: Apartments 604, 4001, and 4004 are now the sole apartments designed for the handicapped and not 602, 603 and 702. The "01" and "04" apartments net floor areas have been changed from 390 square feet including 76 square feet of hideaway

space to 365 square feet including 72 square feet of hideaway space, and the "02" and "03" apartments net floor areas have been changed from 395 square feet including 72 square feet of hideaway space to 386 square feet including 51 square feet of hideaway space. The fact that Apartment 4001 has exclusive use of the numbered 40th floor roof has been deleted from this paragraph in the Declaration.

C. LOCATION; NUMBERING AND ALTERATION OF APARTMENTS: The fact that the owner of Apartment 4001 may alter and/or enclose the roof level has been deleted in the Declaration.

D. LIMITS OF APARTMENTS. There has been added to the Declaration the following language to clarify the method by which the square footage is calculated:

The net living area of each apartment shown on the Condominium Map is measured as follows: Each apartment floor area is measured from the interior surface of the apartment's perimeter walls (including all the walls and partitions within its perimeter walls, and the interior of any glass windows or panels along the perimeter).

LIMITED COMMON ELEMENTS: The original Exhibit "A" referred to under this topical heading is deleted in its entirety and the new Exhibit "A" attached hereto is incorporated herein by reference. There has been added to the Declaration the following language as paragraph b (the original paragraph is now labeled as paragraph a):

"(b) All of the roof top area designated in the Condominium Map shall be appurtenant to Apartment 4001 for the exclusive use of the owner of Apartment 4001 for the purpose of installing transmission and receiving facilities, including antennas, cables, etc., for radio, television, microwave, cablevision and any other type of transmission and receiving facilities. The maintenance and repair of the roof shall remain with the Association, however, the maintenance and repair of such facilities placed on the roof shall be the installer and/or the owner of Apartment 4001."

INTEREST TO BE CONVEYED TO THE PURCHASER: All of the studio apartments except Apartment 4001 shall have appurtenant thereto the following undivided common interests in all of the common elements of the project: .735% each. Apartment 4001 shall have a common interest of .775%. Each apartment's common interest shall govern on voting and on all matters requiring action by the owners.

USE AND RESTRICTIONS: The following sentence should be added:

"The Developer may sell to any person and/or entity including any related entity of the Developer any of the condominium units and such person and/or entity may fractionalize and sell, lease, rent or use the unit for any time periods, provided that if any time period sold is for less than 60 days, then the provisions of IRS 514E regarding time sharing must first be complied with.

OWNERSHIP OF TITLE: A Status Title Report dated January 11, 1984 and prepared by Title Guaranty of Hawaii, Inc. reflects that

title is now vested in Westbury Holdings N.V. as Sublessee per Sublease dated May 1, 1981 filed at the Assistant Registrar of the Land Court as Document No. 1067149A, said Sublease being amended by Document No. 1095023 and being further amended by Document No. 1171878.

ENCUMBRANCES AGAINST TITLE: Said Status Title Report dated January 11, 1984 reflects the following encumbrances:

1. As to First (Lot B) only:

(A) Easement "2" (805 square feet), as shown on Map 3, as set forth by Land Court Order No. 9945, filed November 27, 1950.

(B) Grant in favor of James Yukio Hamasaki, Trustee, dated August 16, 1951, filed as Land Court Document No. 133877; granting the full and free right to an easement of right of way for all purposes over, across along and upon Easement "2" across Lot B appurtenant to the land covered by Transfer Certificate of Title No. 50,764.

2. As to Second (Lot A) only:

(A) A right-of-way 8.5 feet wide along the makai side of this lot to the remainder of the land described in Deed of G. W. Keawemahi ----- "Until another right-of-way of equal size shall be obtained thereto, when the right to use the way reserved herein shall cease," which right-of-way is described in the map or plan accompanying Land Court Application No. 171.

(B) Easement "1" (1,677 square feet), as shown on Map 3, as set forth by Land Court Order No. 9945, filed November 27, 1950.

(C) Grant in favor of James Yukio Hamasaki, Trustee, dated August 16, 1951, filed as Document No. 136856; granting the full and free rights to an easement of right of way for all purposes over, across, along and upon Easement "1".

3. As to Third (Lot 102-A) only:

(A) An easement for any and all purposes in favor of Yoshiko Hamasaki, et al, as shown on Map 13, filed with Land Court Application No. 852.

(B) Easement "21" (10 feet wide) for sanitary sewer purposes, as shown on Map 27, as set forth by Land Court Order No. 10073, filed January 23, 1951.

4. As to the undivided interests of YMJ, Inc., a Hawaii corporation, namely, undivided one-fourth (1/4) interests in Parcels "FIRST" and "SECOND", and an undivided one-half (1/2) interest in Parcel "THIRD"), the following covenants contained in Deed dated December 2, 1977, filed as Document No. 849018, to-wit:

"And the Grantee hereby, for itself, its successors and assigns, covenant and agree with the Grantor, her heirs and personal representatives, that the Grantee will pay to said Ethel Fujiko Kato, as long as she shall live, the sum of \$400.00 each

month from the monthly rentals derived from the aforesaid undivided interest in and parcels for land hereby conveyed to it, and that this covenant shall run with said undivided interest in and to said parcels of land."

5. Master Lease dated May 1, 1981, filed as Document No. 1067148A, entered into by and between CHARLES MASARU HAMASAKI, husband of Lorraine Yaeko Hamasaki, RUBY NOBUKO HAMADA, wife of Bruce Shigeki Hamada, PEARL KIKUE AIONA, unmarried, MAY MITSUE TANABE, wife of Kiyoshi Tanabe, SATOYO HAMASAKI, widow, JAMES YUKIO HAMASAKI, husband of Barbara Lee Hamasaki, MARGARET SHIGEKO TOYODA, wife of Wilfred Sadayoshi Toyoda, YOSHIKO HAMASAKI, widow, and YMJ, INC., a Hawaii corporation, as Lessor, and METROPOLITAN PROPERTIES, LTD., a Hawaii corporation, as Lessee; leasing and demising the premises described herein for a term commencing May 1, 1981 and ending at midnight on March 31, 2048.

ESTOPPEL, NON-DISTURBANCE, ATTORNMEN T AND SUBORDINATION AGREEMENT dated May 31, 1983, filed as Document No. 1171884, by Hawaiian Trust Company, Limited, a Hawaii corporation.

6. Terms, agreements, reservations, covenants, conditions and provisions contained in Sublease dated May 1, 1981 filed as Land Court Document No. 1067149A, as amended, by instrument dated November 9, 1981 and May 31, 1983, filed as Land Court Document Nos. 1095023 and 1171878, respectively.

7. Mortgage made by WESTBURY HOLDINGS N.V., a Netherlands Antilles corporation, in favor of PACIFIC CONSTRUCTION CO., LTD., a Hawaii corporation, dated May 7, 1982, filed in said Office of the Assistant Registrar, State of Hawaii, as Land Court Document No. 1116053 in the amount of \$760,000.00.

By SUBORDINATION OF PACIFIC'S AGREEMENTS TO LENDER'S LOAN AGREEMENTS dated May 12, 1983, filed as Document No. 1171885, said above Mortgage was subordinated to the lien of that certain Mortgage, Security Agreement and Financing Statement filed as Document No. 1171883.

8. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Horizontal Property Regime dated January 21, 1983, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1150624, as the same may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 484.) Said Declaration was amended by instruments dated January 9, 1984 and January 23, 1984, filed as Document Nos. 1212765 and 1215909, respectively.

By ESTOPPEL, NON-DISTURBANCE, ATTORNMEN T AND SUBORDINATION AGREEMENT dated May 31, 1983, filed as Document No. 1171884, said above Declaration of Horizontal Property Regime was subordinated to the lien of that certain Mortgage, Security Agreement and Financing Statement filed as Document No. 1171883.

9. By-Laws of the Association of Apartment Owners of the Condominium Project known as "THE WESTBURY" dated January 21, 1973, (sic) filed in the Office of the Assistant Registrar of the

Land Court of the State of Hawaii as Land Court Document No. 1150625, as the same may hereafter be amended. NOTE: The title report is apparently in error, as the date of the By Laws is January 21, 1983.

By ESTOPPEL, NON-DISTURBANCE, ATTORNTMENT AND SUBORDINATION AGREEMENT dated May 31, 1983, filed as Document No. 1171884, said above By-Laws of the Association of Apartment Owners was subordinated to the lien of that certain Mortgage, Security Agreement and Financing Statement filed as Document No. 1171883.

10. Mortgage, Security Agreement and Financing Statement made by WESTBURY DEVELOPMENTS (ALA MOANA) INC., a Hawaii corporation, "Developer", and WESTBURY HOLDINGS N.V., a Netherlands Antilles corporation, in favor of FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF SOUTHEAST MISSOURI, a Federal savings and loan association, dated June 1, 1983, filed as Land Court Document No. 1171883 in the amount of \$12,500,000.00.

ESTOPPEL, NON-DISTURBANCE, ATTORNTMENT AND SUBORDINATION AGREEMENT dated May 31, 1983, filed as Document No. 1171884, by Hawaiian Trust Company, Limited, a Hawaii corporation.

11. Mortgage, Security Agreement and Financing Statement made by WESTBURY HOLDINGS N.V., a Netherlands Antilles corporation (WESTBURY DEVELOPMENTS (ALA MOANA) INC., a Hawaii corporation, and RALPH VICTOR BAROUCHE - Borrower), as Mortgagor, in favor of EZRA, O'CONNOR & MOON, a Law Corporation, dated November 29, 1983, filed as Land Court Document No. 1205532 in re mortgaging premises under search as security for the repayment of all of Borrower's obligations, etc. in General Retention Agreement, etc.

12. Real property taxes as may be due and owing - For further information, check with the Department of Finance.

The following encumbrances were noted and copies furnished the Commission, subsequent to issuance of said Title Report of January 11, 1984:

1. Notice of Adverse Claim dated January 30, 1984 by Sammy George Daily and Margaret Philomena Daily against the leasehold filed as Document No. 1217142.

2. Notice of Constructive Trust dated January 30, 1984 by Sammy George Daily and Margaret Philomena Daily against the leasehold filed as Document No. 1217143.

NOTE: A Petition to Expunge Memorandum Encumbrances from Land Court Certificate of Title No. 237622 was filed on February 17, 1984 to expunge the foregoing encumbrances. The Land Court has since heard the case and a decision has been rendered expunging the liens on March 27, 1984 and the Decree for the expungement will become final in 10 days if no Notice of Appeal is taken to the Circuit Court on questions of fact.

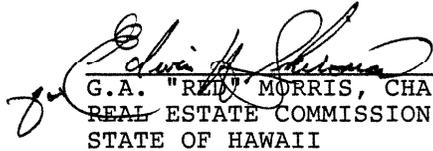
MANAGEMENT AND OPERATIONS: In lieu of Aaron M. Chaney, Inc., the Developer has selected Great American Management Group, Inc., 2255 Kuhio Avenue, Suite 1900, Honolulu, Hawaii 96815, as the

initial managing agent for the Project.

STATUS OF PROJECT: The financing for the construction had closed on June 1, 1983. Completion of the project is estimated to occur on April 15, 1984.

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 January 22, 1982, and additional information subsequently filed as of March 23, 1984.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 1482 filed with the Commission on January 22, 1982. 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.


G.A. "REX" MORRIS, CHAIRMAN
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

DEPARTMENT OF FINANCE
BUREAU OF CONVEYANCES
PLANNING DEPARTMENT, CITY & COUNTY OF HONOLULU
FEDERAL HOUSING ADMINISTRATION
ESCROW AGENT

Registration No. 1482

March 29, 1984

Parking Stall Assignment

<u>Floor No.</u>	<u>Unit #1 Stall No.</u>	<u>Unit #2 Stall No.</u>	<u>Unit #3 Stall No.</u>	<u>Unit #4 Stall No.</u>
1-5	n/a	n/a	n/a	n/a
6	117 - c	109 - c	1	118 - c
7	110 - c	75 - c	2	83 - c
8	12 - c	5 - c	3	74 - c
9	13 - c	4 - c	68	82 - c
10	39 - c	116	102 - c	125
11	40 - c	106	38	113
12	47 - c	123	34	127
14	48 - c	133	36	107
15	108	139	32 - c	111
16	114	131	69	129
17	119	136	104	138
18	132	120	73	135
19	112	121	130	134
20	137	122	124	115
21	37	128	126	33
22	67 - c	71	72	76 - c
23	41 - c	77	80	101
24	66	31	79	6 - c
25	100	7	81 - c	42
26	65	99	84 - c	78
27	8	88	98	43
28	64	9	86	44
29	85	93	103	45
30	90	46 - c	30	10
31	89	29	96	11 - c
32	87	95	14	49
33	97	91 - c	15	50
34	52	63	18	53
35	20	55	62	51
36	56 - c	61	25	60
37	54	58	21 - c	17
38	19	27	23	16
39	59	94	57	92
40	22+35+70+ 105+140-c+ 141-c	24	28	26

Please note: "c" denotes a compact stall.

THE WESTBURY
DISCLOSURE ABSTRACT

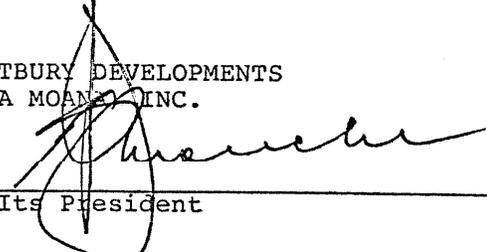
1. Name of Project: The Westbury
2. Address: 1700 Ala Moana Boulevard, Honolulu, Hawaii
3. Name of Developer: Westbury Developments (Ala Moana) Inc., a Hawaii corporation
4. Address of Developer: Suite 1910, PRI Tower, Grosvenor Center, 733 Bishop Street, Honolulu, Hawaii 96813
5. Telephone: (808) 523-6117
6. Project Manager or Agent: James C. Peterson
7. Address: P. O. Box 15465, Honolulu, Hawaii 96815
8. Maintenance Fees: Breakdown of monthly and annual maintenance fees and the monthly maintenance for each apartment is set forth in the estimate of expenses attached hereto and incorporated herein by reference and is certified to be based on generally accepted accounting principles.
9. Commencement of Maintenance Fees: An apartment owner shall become obligated for the payment of the share of the common expenses allocated to his apartment when the apartment is ready for occupancy or until such time that the Developer advises that after a date certain all apartments including the Developer's retained and/or unsold apartments shall uniformly be required to pay its respective share of common expenses allocated to its apartments.
10. Warranties:

Individual apartments and common elements: The warranty by the general contractor will be for labor, materials and equipment produced or incorporated into the Project are to be free from defects and in accordance with the construction contract. As to appliances, the manufacturer and/or supplier's warranties to be transferred to the Buyer.

Initiation and expiration of any such warranties: The general contractor's warranty to extend for one year from the certificate of completion issued by the Architect for the Project. As to appliance warranties, the same to be for such period as is provided in the manufacturer's and/or supplier's warranty.
11. Project: One hundred thirty-six (136) apartments in one (1) building for apartment use with 138 regular and 18 compact stalls. Each apartment has one (1) parking stall assigned to it except that Apartment 4001 shall have assigned to it six (6) parking stalls and there are 15 stalls assigned to the Association. See Declaration for further detailed description of the uses of the apartments. There are no other uses in the Project.

Dated: February 23, 1984 .

WESTBURY DEVELOPMENTS
(ALA MOANA) INC.

By 

Its President

THE WESTBURY
COMMON ELEMENT
1984/85 BUDGET SUMMARY

	MONTH	YEAR
ADMINISTRATIVE & GENERAL	\$ 3,487	\$ 41,844
HEAT, LIGHT & POWER	11,608	139,296
REPAIRS & MAINTENANCE	4,011	48,132
RESERVE	-0-	-0-
TOTAL BUDGET	\$ 19,106	\$ 229,272

MAINTENANCE FEES BY UNIT TYPE:

ALL UNITS (EXCEPT 4001)	.735%	\$ 140.43
UNIT 4001	.775%	\$ 148.07

GAMG 1/84

I hereby certify that this budget was reviewed and prepared under my personal supervision and said schedules are based on generally accepted accounting principles, and the costs and fees herein are estimates as of February 1 1984.

Dated at Honolulu, Hawaii

This 23rd day of February, 1984.


VINCENT F. CUCE, Corporate Controller
THE GREAT AMERICAN MANAGEMENT GROUP
OF HAWAII, INC.