

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

**PRELIMINARY
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT**

ON

WAILEA POINT VILLAGE - PHASE III
Wailea, Maui, Hawaii

Registration No. 1663

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 21, 1985
Expires: March 21, 1986

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers 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 ON JANUARY 11, 1985, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS OF FEBRUARY 14, 1985. 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. WAILEA POINT VILLAGE - PHASE III is the third phase of a proposed fee simple condominium project. THIS PUBLIC REPORT SHALL ALLOW THE DEVELOPER TO ENTER INTO SALES AND RESERVATION AGREEMENTS ONLY WITH RESPECT TO APARTMENTS IN PHASE III OF THE PROJECT. The third phase shall consist of sixty-four (64) residential apartments, sixty-four (64) car garage apartments, and twelve (12) boat garage apartments, to be built in accordance with floor plans filed with the Real Estate Commission (the "Commission"). The third phase will contain 28 parking spaces in addition to the garage apartments.
2. The Developer of the project has submitted to the Commission for examination all documents deemed necessary for the registration of a condominium project and issuance of this Preliminary Public Report. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt therefor.
3. No advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
4. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the Condominium Map) have not been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A of the Hawaii Revised Statutes, as amended, and the Rules and Regulations of the Hawaii Real Estate Commission which relates to Horizontal Property Regimes.
6. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, February 21, 1985, unless a Supplementary or Final Public Report is issued or the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: WAILEA POINT VILLAGE - PHASE III

LOCATION: The project is located at Wailea, Island of Maui, State of Hawaii and will consist of approximately 11.111 acres of land. The parcel upon which phase III of the project will be built is not as yet subdivided to separate it from parcels on which other phases may be built, but will be subdivided prior to the issuance of the Final Public Report.

TAX KEY: Second Division, 2-1-8: portion of 86

ZONING: H-1 and H-2

DEVELOPER: Wailea Point Development, Inc., a Hawaii corporation, with its principal place of business and post office address at 3750 Wailea Alanui, Kihei, Maui, Hawaii 96753; Telephone: 879-0060. The officers are:

President/Secretary
Clyde A. Wagner
16921 Ingelwood Road, N.W.
Bothell, Washington 98001

Vice President/Treasurer
Clyde D. Wagner
3750 Wailea Alanui
Kihei, Hawaii 96753
Telephone: (808) 879-0060

ATTORNEY REPRESENTING DEVELOPER: Carlsmith & Dwyer, Suite 1800, Pioneer Plaza, 900 Fort Street, Honolulu, Hawaii 96813 (Attention: Mitchell A. Imanaka), Telephone No. 524-8000.

DESCRIPTION OF THE PROJECT:

A. Description of Buildings: The property shall contain sixteen (16) residential apartment buildings (each containing four residential apartments), thirty (30) car garage buildings (two of which contain four car garage apartments and twenty-eight of which contain two car garage apartments), and one (1) boat garage building containing twelve boat garage apartments. There shall also be a recreation pavillion containing a racquet ball court, exercise gym and restroom facilities. Eleven residential apartment buildings have two stories (Buildings 19, 20, 21, 22, 23, 28, 29, 30, 32, 33 and 34). The other five residential apartment buildings have three stories (Buildings 24, 25, 26, 27 and 31). The recreation pavillion has two stories. The garage buildings each contain one story. Buildings 24, 25, 26, 27 and 31 each have a basement. No other building shall have a basement. All buildings will be constructed principally of concrete, masonry, plaster, steel, wood and glass. The residential apartment buildings are numbered from 19 - 34.

B. Description of the Residential Apartments: Sixty-four (64) separate residential condominium apartments are designated in the space within the perimeter and party walls, windows, doors, floors and ceilings of each of the sixty-four (64) residential apartment units of the property, distributed among the sixteen (16) residential apartment buildings described above, which spaces, together with the respective appurtenant lanai air spaces, are referred to herein as "apartments" or as "residential apartments", and are designated on said Condominium Map and described as follows:

(1) Residential Apartment Numbers and Locations: The residential apartments are numbered in accordance with the building in which they are located and their location within the building. The first digit in the apartment number identifies the building in which the apartment is located, from 19 - 34. The last two digits in the apartment number identify the location of the apartment

within the building. Approaching the front entry to the apartment buildings (which all face the entry courtyard area), the first floor unit on the right hand side is designated "01", the second floor unit on the right hand side is designated "02", the first floor unit on the left hand side is designated "03", and the second floor unit on the left hand side is designated "04". The apartment numbers and locations are more fully illustrated on the Condominium Map.

(2) Layout and Area of Residential Apartments: The residential apartments are constructed according to twenty-two (22) different basic floor plans. A description of each of said basic floor plans, designating the layout, number of rooms and the approximate net and gross floor area of each apartment is set forth in Exhibit "B" which is attached hereto and incorporated herein by this reference.

(3) Access to Common Elements: Each residential apartment has immediate access to the grounds of the property or to a walkway or stairway leading to the grounds of the property and to Wailea Alanui Drive.

(4) Other Data Identifying and Defining the Residential Apartments: The respective residential apartments shall not be deemed to include the perimeter or party walls or the undecorated or unfinished surfaces thereof; the perimeter doors, door frames, windows and window frames; the interior load-bearing walls and columns, if any; the floor and ceiling (including skylight, if any) surrounding each apartment; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines which are utilized for or serve more than one apartment; all of the foregoing being common elements as hereinafter provided. Each residential apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls; the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames, windows and window frames; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines running through such apartment which are utilized for and serve only that apartment; lanai air space, if any; and all fixtures installed in the apartment.

C. Description of the Car Garage Apartments: Sixty-four (64) separate car garage condominium apartments are designated in the space within the perimeter and party walls (as shown on the Condominium Map), windows, doors, floors and ceilings of each of the sixty-four (64) car garage apartment units of the property, distributed among the thirty (30) car garage apartment buildings described above, which spaces are referred to herein as "apartments", "garage apartments" or as "car garage apartments", and are designated on said Condominium Map and described as follows:

(1) Car Garage Apartment Numbers and Locations: The car garage apartments are numbered with the same numbers assigned to the residential apartments followed by a "G" (for garage), and are located in front of the residential apartment buildings. The apartment numbers and locations are more fully illustrated on the Condominium Map.

(2) Layout and Area of Car Garage Apartments:

Each car garage apartment has a basically rectangular floor and consists of one unpartitioned room with an approximate net floor area of 248 square feet, and an approximate gross floor area of 264 square feet. Party walls between car garage apartments may or may not be erected, at the discretion of Declarant or any owner of a car garage apartment.

(3) Access to Common Elements. Each car garage

apartment has immediate access to the grounds of the property and to Wailea Alanui Drive.

(4) Other Data Identifying and Defining the Car

Garage Apartments: The respective car garage apartments shall not be deemed to include the perimeter or party walls (if any) or the undecorated or unfinished surfaces thereof; the perimeter doors, door frames, windows and window frames; the floor and ceiling surrounding each apartment; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines which are utilized for or serve more than one apartment; all of the foregoing being common elements as hereinafter provided. Each car garage apartment shall be deemed to include the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames, windows and window frames; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines running through such apartment which are utilized for and serve only that apartment; and all fixtures installed in the apartment.

D. Description of the Boat Garage Apartments:

Twelve (12) separate boat garage condominium apartments are designated in the space within the perimeter and party walls (as shown on the Condominium Map), windows, doors, floors and ceilings of each of the twelve (12) boat garage apartment units of the property, which spaces are referred to herein as "apartments", "garage apartments" or as "boat garage apartments", and are designated on said Condominium Map and described as follows:

(1) Boat Garage Apartment Numbers and

Locations: The boat garage apartments are numbered from 1 - 12 preceded by a "BG" (for boat garage), and are located near the entry to the property. The apartment numbers and locations are more fully illustrated on the Condominium Map.

(2) Layout and Area of Boat Garage Apartments:

Each boat garage apartment has a basically rectangular floor and consists of one unpartitioned room. There are two types of boat garages. The first type of boat garage (BG-1, BG-2, BG-3, BG-4, BG-5 and BG-6) has an approximate net floor area of 270 square feet, and an approximate gross floor area of 288 square feet. The second type of boat garage (BG-7, BG-8, BG-9, BG-10, BG-11 and BG-12) has an approximate net floor area of 425 square feet, and an approximate gross floor area of 448 square feet. Party walls between boat garage apartments may or may not be erected, at the discretion of Declarant or any owner of a boat garage apartment.

(3) Access to Common Elements. Each boat garage apartment has immediate access to the grounds of the property and to Wailea Alanui Drive.

(4) Other Data Identifying and Defining the Boat Garage Apartments: The respective boat garage apartments shall not be deemed to include the perimeter or party walls (if any) or the undecorated or unfinished surfaces thereof; the perimeter doors, door frames, windows and window frames; the floor and ceiling surrounding each apartment; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines which are utilized for or serve more than one apartment; all of the foregoing being common elements as hereinafter provided. Each boat garage apartment shall be deemed to include the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames, windows and window frames; any pipes, shafts, ducts, pumps, wires, conduits or other utility or service lines running through such apartment which are utilized for and serve only that apartment; and all fixtures installed in the apartment.

COMMON ELEMENTS: One freehold estate is designated in all of the remaining portions of the property, herein called the "common elements", including specifically but not limited to:

- (1) Said land in fee simple;
- (2) All structural components, such as foundations, concrete sidewalks and curbs, girders, beams, supports, main walls, roofs and ceilings (including skylights), floor slabs, unfinished perimeter, party and interior load-bearing walls and columns, if any, perimeter doors and door frames, windows and window frames;
- (3) All common spaces such as yards, gardens, planting areas, trash collection areas, the recreation area, the swimming pool and adjoining pavillion and restroom facilities, the paddle tennis, racquet ball and pickle ball courts, the exercise gym, electrical and telephone rooms, all parking areas, driveways and access lanes;
- (4) Installations for services such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central appurtenant transmission facilities and installations over, under or across the property which serve more than one apartment for services such as power, light, gas, hot water, cold water, sewage, telephone, air conditioning, radio and television signal distribution, if any;
- (5) Any apparatus and installations existing for common use, such as tanks, pumps, motors, fans, compressors, ducts, vents, and other such installations and apparatus;
- (6) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

COMMON INTEREST: Each residential apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the property (herein called the "common interest"), and the same proportionate share in all common profits and expenses of the property and for all other purposes, including voting, as set forth in said Exhibit "B". Each car garage apartment shall similarly have appurtenant thereto an undivided .19429 percentage interest. Boat garage apartments BG-1, BG-2, BG-3, BG-4, BG-5 and BG-6 shall similarly have appurtenant thereto an undivided .21195 percentage interest, and boat garage apartments BG-7, BG-8, BG-9, BG-10, BG-11 and BG-12 shall similarly have appurtenant thereto an undivided .32971 percentage interest.

EASEMENTS: The apartments and common elements shall have and be subject to the following easements:

A. Each apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes as ingress to, egress from, utility services for and support, maintenance and repair of such apartment, and shall also have the right to use the other common elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners, and in the other apartments in the building in which such apartment is located for support.

B. In the case of encroachments of common elements upon any apartment, or in the case of encroachments of any apartment upon the common elements or any other apartments, a valid easement for such encroachment and maintenance thereof shall and does exist for so long as such encroachment continues. In the event any building of the property shall be partially or totally destroyed and then rebuilt, or in the event of any shifting, settlement or movement of any portion of the property, encroachments upon any part of the common elements or apartment due to the same shall be permitted, and a valid easement for such encroachment and the maintenance thereof shall and does exist for so long as such encroachment continues.

C. The apartment owners shall have the irrevocable right, to be exercised by the Board of Directors of the Association (sometimes referred to herein as the "Board"), to have access to each apartment from time to time during reasonable hours as may be necessary for the operation or maintenance of the property or at any time for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

D. The Developer, its agents, successors and assigns, shall have the right to conduct extensive sales activities on the property, including the use of model apartments, sales and management offices, and extensive sales displays and activities until the closing of the sale of the last unsold apartment in the property and in any additional phase to the property. In the event that the Developer's mortgage lender or any successor to or assignee of the Developer's mortgage lender shall acquire any portion of the property in the course of any foreclosure or other legal proceeding or in the exercise of its mortgage remedies or by an

assignment in lieu of foreclosure, such mortgage lender, its successors and assigns shall have the right to conduct such extensive sales activities on the property until all of the apartments in each phase have been sold and apartment deeds therefor have been filed.

E. The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon the property as may be reasonably necessary for the completion of improvements to and correction of defects in the property. Such easement shall terminate twenty-four (24) months after the later of (i) the date of the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the first apartment deed, or (ii) the "date of completion" (as that term is defined in Section 507-43(f), Hawaii Revised Statutes) of the improvement to be completed or corrected. Such period shall be extended for such additional period (not to exceed twenty-four (24) months) as may be reasonably necessary for the completion of such improvements or the correction of such defects in the exercise of due diligence, or such additional period as may become necessary if such completion is delayed by reason of force majeure.

F. Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over, under and upon the property or any portion thereof, to create and cause noise, dust and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of any apartment or other improvements in any additional phase or other project which Developer may develop on adjacent or nearby property.

G. Developer, its contractors and subcontractors, and their respective employees and agents, shall have the right and an easement in favor of the Developer and its successors and assigns is hereby granted at any time and from time to time prior to December 31, 1995, to enter upon and use the common elements of the property and do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional phase to the project, connecting the same to the utility installations of the property, and selling the apartments contained within said additional phase; provided that there shall not be caused thereby any interruption other than a temporary interruption in the service of utilities to the property, and provided further that any such persons shall use reasonable efforts, without additional cost to the Developer and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional phase, to minimize interference with the apartment owners' use and enjoyment of the property.

H. Developer, or any particular apartment owner who is the owner of two or more adjacent garage apartments separated by a party wall, or any two apartment owners who are the owners of two or more adjacent garage apartments separated by a party wall, their agents, employees, contractors, licensees, successors and assigns shall have an easement over, under, upon and through the common elements or any portion thereof as may be reasonably necessary to effect the alteration

or removal of all or portions of any intervening wall as contemplated by subsection 7.F.(1) of the Declaration and the restoration thereof as may be required by said subsection 7.F.(1); and such easement shall allow such parties to create and cause noise, dust and other nuisances created by and resulting from any work connected with or incidental to the effectuation of any such alteration, removal or restoration, provided that any such work is proceeded with in the exercise of due diligence.

I. Developer or any particular apartment owner who is the owner of two or more adjacent garage apartments, their agents, employees, contractors, licensees, successors and assigns shall have an easement over, under, upon and through such area between adjacent garage apartments as may be necessary for access between said apartments.

J. Developer or any apartment owner, their agents, employees, contractors, licensees, successors and assigns, shall have an easement over, under, upon and through the common elements and through the garage apartments or any portion thereof as may be reasonably necessary to effect the construction of party walls between adjacent garage apartments; and such easement shall allow such parties to create and cause noise, dust and other nuisances created by and resulting from any work connected with or incidental to the effectuation of any such construction, provided that any such work is proceeded with in the exercise of due diligence.

K. Developer, as the owner of two or more adjacent residential apartments separated by a party wall, its agents, employees, contractors, licensees, successors and assigns shall have an easement over, under, upon and through the common elements or any portion thereof as may be reasonably necessary to effect the alteration or removal of all or portions of any intervening wall as contemplated by subsection 7.G.(1) of the Declaration and the restoration thereof as may be required by said subsection 7.G.(1); and such easement shall allow Developer to create and cause noise, dust and other nuisances created by and resulting from any work connected with or incidental to the effectuation of any such alteration, removal or restoration, provided that any such work is proceeded with in the exercise of due diligence.

L. Any first owner of an apartment other than Developer, his contractors and subcontractors, and their respective employees and agents, shall have the right, and an easement in favor of such apartment owner and his successors and assigns is hereby granted at any time and from time to time, to enter upon and use the common elements of the property and do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing the interior space of his apartment, and connecting the same to the utility installations of the property; provided that any such owner shall use reasonable efforts, consistent with maintaining the progress of the design, development, construction, completion and sale of the project, to minimize interference with the other apartment owners' use and enjoyment of the property.

PURPOSES OF AND RESTRICTIONS ON USE OF THE BUILDINGS, INDIVIDUAL APARTMENTS AND COMMON ELEMENTS: Except when the holder of the first mortgage on an apartment has entered into

possession of the apartment following (i) a default under its first mortgage, (ii) a foreclosure proceeding, or (iii) a conveyance in lieu of foreclosure, the residential apartments shall be occupied and used only "as residential dwellings".

The garage apartments may be used only as a parking area for a motor vehicle and for the storage of miscellaneous items; provided that any such storage shall be orderly and neat, and shall not cause unsightliness.

A. Notwithstanding anything provided to the contrary, no apartment owner or other person shall be allowed to create, implement or maintain a time-sharing program on the property, whether under the aegis of Chapter 514E of the Hawaii Revised Statutes, any successor statute, or otherwise. As used herein, "time sharing program" shall be deemed to include, without limitation, any plan or arrangement under which the occupancy or sole right to possession of apartments circulates among various individuals, corporations, partnerships, associations, trusts or other legal entities or any combination thereof, according to a fixed or floating time or apartment schedule on a cyclical, reservation or other basis, including, but not limited to, such plans utilizing a vacation license, club membership, limited partnership, tenants in common, land trust, vacation bond or vacation lease arrangement.

B. No garage apartment may be owned or leased by someone other than an owner of a residential apartment in any phase of Wailea Point Village, and any conveyance or attempted conveyance of a garage apartment to someone who does not own a residential apartment in any phase of Wailea Point Village shall be void.

C. Notwithstanding anything provided to the contrary, and except as otherwise provided by law:

(1) The owner of any two or more adjacent garage apartments separated by a party wall, or any two apartment owners who are the owners of two or more adjacent garage apartments separated by a party wall acting together, may alter or remove all or portions of the intervening wall at his or their own expense if certain provisions contained in the Declaration are met and complied with.

(2) The Developer or any other owner of a garage apartment, with or without the approval of the owner of any adjacent garage apartment, may erect a party wall between garage apartments at its or his own expense provided that certain provisions contained in the Declaration are met and complied with.

Each apartment owner, by the acceptance of his apartment deed, shall be deemed to have consented to any alteration or improvement provided for by subsections (1) and (2) above and any construction activity necessary thereto, provided that the requirements contained in the Declaration are met and complied with, and no amendment of the Declaration or the Condominium Map shall be required in any such event. If Board approval of any alteration or improvement provided for by subsections (1) and (2) shall be deemed necessary by the terms of any applicable law, such approval shall not be unreasonably withheld.

D. Notwithstanding anything provided to the contrary, and except as otherwise provided by law:

(1) In any event that Developer is the owner of any two residential apartments separated by a party wall, Developer may alter or remove all or portions of the intervening wall at Developer's expense provided that certain provisions of the Declaration are met and complied with.

(2) The first owner (other than Developer) of any residential apartment, who desires to install, alter and/or rearrange partitions and other improvements within his apartment as appropriate to its residential utilization may do so provided that certain provisions of the Declaration are met and complied with.

(3) Developer shall have the right to alter the floor plan of any apartment which it owns at any time provided that the gross square footage of the apartment is neither increased nor decreased.

The Developer expressly reserves the right to amend the aforesaid Declaration and Condominium Map to effect any consolidation of apartments or alterations to floor plans at any time or times prior to December 31, 1995, and Developer may, without being required to obtain the consent or joinder of any apartment owner, lien holder or other persons, execute and file amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges therein reserved to Developer.

Any apartment owner seeking an alteration of his apartment as described above shall have the right to so amend the aforesaid Declaration and Condominium Map to effect said alteration of the apartment; and said apartment owner shall not be required to gain the consent or joinder of the Association, the Board or any apartment owner or other persons to execute and file amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges therein granted to said apartment owner.

Except as provided above with respect to lienholder's consents to any alteration contemplated hereby, each and every party acquiring an interest in the property, by such acquisition, consents to any such alteration of apartments in accordance with the provisions hereinabove stated, and to the amendment or amendments of the Declaration and the Condominium Map to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints the Developer or the apartment owner in question and their respective assigns as his attorney in fact, with power of substitution, to execute such documents and do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by disability of such party. Each and every person also acknowledges, accepts and agrees that construction activity may occur and/or continue on the property submitted to the Declaration after he has taken occupancy in the property in

order that the alteration of apartments as aforesaid may be effected, and that such activity or activities may result in noise, dust or other annoyances to him, and said persons waive any rights, claims or actions which they may have or acquire against the Developer or the apartment owner in question, their contractors, subcontractors and their other respective agents or employees as a result of such activity or activities.

Each apartment owner, by the acceptance of his apartment deed, shall be deemed to have consented to any alteration or improvement provided for by subsections (1) and (2) above and any construction activity necessary thereto, provided that the requirements of the foregoing subsections (1) and (2) are met and complied with. If Board approval of any alteration or improvement provided for by subsections (1) and (2) shall be deemed necessary by the terms of any applicable law, such approval shall not be unreasonably withheld.

No on-site rental agents shall be permitted.

Among other provisions, the House Rules provide: (1) occupancy is limited to not more than two persons per bedroom contained in each residential apartment, excluding children under the age of five, except that in no event and under no circumstances shall the number of occupants per bedroom contained in each residential apartment exceed three per bedroom, inclusive of children under the age of five; (2) the walking of dogs on the common element areas is expressly prohibited and all pets must be registered immediately with the Managing Agent; (3) no waterbeds shall be permitted in the apartments; and (4) no fires, open flame, hibachis or grills of any kind shall be permitted in any portion of the apartment, except in designated areas on lanais, and only if a gas barbecue is used together with a vent.

MERGER OF PHASES: Developer has the right to effect the merger of other phases with Phase III of the project. In the Developer's sole discretion, any such merger shall be for administrative purposes only or for both administrative purposes and for purposes of allocating ownership of common element areas in the projects to be merged among all of the apartment owners of the merged project. In any event of merger, there will be only one Association, one Board of Directors and one Managing Agent for the merged project. Further, each apartment owner's share of common expenses and voting rights will be adjusted in accordance with the provisions set forth in that certain Declaration of Merger of Condominium Projects, a copy of which is on file with the Commission. In any event of a merger for purposes of allocating ownership interests, each apartment owner's common interest appurtenant to his apartment will be recalculated and may be reduced to reflect that proportion which his apartment's gross floor area bears to the total gross area for the entire merged project.

It is incumbent upon purchasers and prospective purchasers to read with care the proposed Declaration of Merger of Condominium Projects in order to fully understand how merger may be effected and what consequences flow from any merger.

OWNERSHIP OF TITLE: A Preliminary Title Report issued by Title Guaranty of Hawaii, Inc. dated November 27, 1984, reflects that fee simple title is held by the Developer.

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report issued by Title Guaranty of Hawaii, Inc., dated November 27, 1984, states that title to the land is subject to the following encumbrances:

1. For real property taxes that may be due and payable, reference is made to the County Tax Assessor.
2. Reservation of all mineral or metallic mines in favor of the State of Hawaii as set forth in Royal Patent Grants Nos. 234 and 548.
3. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and its effect, if any, upon the area of the land described herein.
4. Easements for drainage purposes over Lot 103 (besides other land) in favor of the County of Maui, appurtenant to Lots 4, 5, 6, 8, 10 and 12 as shown on Map 4, as set forth in Deed dated April 18, 1973, filed as Land Court Document No. 626880.
5. Easement "150" (7.00 acres) over and across Lot 103, as shown on Map 28, as set forth by Land Court Order No. 55428, filed January 8, 1980.
6. Reservation as set forth in Deed dated October 24, 1984, filed as Land Court Document No. 1264759, to-wit:

"Reserving unto Grantor, its successors and assigns the right to designate utility and access easements in, over, under and through Lots 4, 5, 6, 8, 10 and 12 as shown on Map 4 filed as aforesaid with Land Court Application 1804, provided such designations have been first approved by the Director of Planning of the County of Maui and provided the County of Maui shall promptly execute grant of easement documents in favor of Grantor in such form as may be mutually agreed upon; said reserved right and agreement having been granted to Grantor in that certain instrument dated April 18, 1973, and filed aforesaid as Document No. 626880.

Further reserving unto Grantor the exclusive right to extract, pump, remove, or withdraw from wells located on other lands any and all liquid substances, including but not limited to water, that may be located below the surface of the land."

7. Prohibition against any drilling, boring or coring of any wells to extract, pump or remove any liquid substances located under the surface of the land or to inject, recharge or dispose of any water or liquid waste into the ground or any underground formation, as set forth in said Deed filed as Document No. 1264759.

8. Reservations contained in said Deed filed as Document No. 1264759, to-wit:

"Excepting and reserving, however, unto the Grantor, its successors and assigns, easements and the right to use, and the right to grant easements for, and to grant the right to use for electrical, gas, television and other communication lines and other utility facilities and purposes, for sewer, drainage,

and water facilities and purposes and for such other reasonable purposes and facilities as may be determined by Grantor in connection with Grantee's development, construction, sale or use of condominium apartments constructed thereon and/or Grantor's development of the properties adjacent to or reasonably close to the land, over, under, along, across and through the land and/or the easements appurtenant together with the right in Grantor's sole discretion to designate such easements or right of use by filing a petition in the Land Court of the State of Hawaii, and to grant to the State of Hawaii, County of Maui or any other appropriate governmental agency or to any public utility or other corporation or entity or any other person requiring said easements, easements for such purposes over, under, across, along and through the land and/or the easements appurtenant under the usual terms and conditions required by the grantee of such easement or right, and the Grantee hereby irrevocably appoints the Grantor as the Grantee's attorney-in-fact to file petitions designating such easements and to grant such easements and uses and to do all other things necessary to effectuate such designations and grants; provided, however, that such easements and rights must be exercised in such manner as not to unreasonably interfere with the use of the land by the Grantee, its successors and assigns, and, in connection with the installation, maintenance or repair of any facilities pursuant to any of such easements, the land and/or easements shall be promptly restored by and at the expense of the person owning and exercising such easement rights, to the condition of the land and/or the easements immediately prior to the exercise thereof.

Further excepting and reserving unto the Grantor, its successors and assigns, the following right: if at the time of execution and delivery of this Deed Grantor has not filed and made the land subject to the "Declaration of Covenants, Conditions and Restrictions for Wailea Community Association" (the "WCA Declaration"), then Grantor shall have the right and power to include the land and all condominium apartments developed thereon in the Wailea Community Association ("WCA") and to make the land and such improvements and/or the easements appurtenant subject to the assessments thereof and to the WCA Charter and Bylaws and subject to the above-mentioned WCA Declaration, and any amendments thereto and/or to make the land and/or the easements appurtenant to any condominium project subject to any similar organization and Declaration in substitution of WCA and in substitution of said WCA Declaration. WCA is responsible for certain services and the maintenance of certain property being developed in which the land is located.

Further excepting and reserving unto the Grantor, or Grantor's assigns, agents, employees and independent contractors of Grantor, the right to enter upon the land and/or the easements appurtenant with employees, agents and contractors for all purposes reasonably necessary for or useful to Grantor in enforcing any covenants running with the land.

Further excepting and reserving unto the Grantor, its successors and assigns the right to transfer part of or all of Grantor's reserved rights hereunder to any person(s), association, corporation or other entity without notice to, consent of or joinder of Grantee."

9. Covenants contained in said Deed filed as Document No. 1264759, to-wit:

"1. Grantee does hereby covenant and agree for the benefit of the Grantor to at all times observe, perform, comply with and abide by all of the covenants, agreements, obligations, conditions and other provisions set forth herein, and in that certain unrecorded Land Sales Contract between Grantor's predecessor in title and Grantee's predecessor in title dated January 17, 1984, the First Amendment to Sales Contract dated September 1, 1984, the Second Amendment to Land Sales Contract dated October 9, 1984, and in the above-mentioned WCA Declaration as such document now exists or is hereafter amended as stated in said Land Sales Contract, as so amended.

2. Grantee agrees to and shall indemnify and hold harmless the Grantor from and against any and all claims, suits, and actions by whomsoever brought for any loss, damage or injury, including property damage, personal injury or wrongful death when such loss, damage, injury or death arises from, or is connected with Grantee's exercise of the rights granted herein, or by the Grantee's failure to observe any of the covenants, promises or conditions herein contained and on its part to be kept, observed and performed."

10. Mortgage dated October 24, 1984, made by and between Wailea Point Development, Inc., a Hawaii corporation, as mortgagor, and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation, and Wailea Development Company, Inc., a Hawaii corporation, as mortgagee, filed in the Office of the Assistant Registrar as Land Court Document No. 1264760.

11. Mortgage dated October 25, 1984, made by and between Wailea Point Development, Inc., a Hawaii corporation, as mortgagor, and Metropolitan Federal Bank, fsb, a federal savings bank, as mortgagee, filed in the Office of the Assistant Registrar as Land Court Document No. 1264761.

PURCHASE MONEY HANDLING: A specimen Condominium Reservation Agreement, Deposit Receipt and Sales Agreement (hereinafter called "Reservation and Sales Agreement") and the executed Escrow Agreement have been submitted to the Real Estate Commission as part of the registration. The Escrow Agreement dated January 7, 1985 identifies Title Guaranty Escrow Services, Inc. as the escrow agent. Upon examination, the specimen Reservation and Sales Agreement and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes. The provisions of the Reservation and Sales Agreement and the Escrow Agreement should be carefully read by the purchasers. The specimen Reservation and Sales Agreement filed as part of the registration recites the conditions under which the purchaser acknowledges receipt of the Public Report.

Among other provisions, the Escrow Agreement provides that the purchaser shall be entitled to a refund of his funds only if (a) seller asks Escrow to refund the purchaser's funds, (b) seller notifies Escrow of seller's rescission of the Reservation and Sales Agreement or (c) the conditions provided for a refund in Sections 514A-62 or 514A-63 of the Horizontal

Property Act (as amended on the date the Reservation and Sales Agreement becomes binding and effective) have been met and written notice thereof has been provided to the seller.

Among other provisions, the specimen Reservation and Sales Agreement provides that:

(1) Reservation and Sales Agreements executed prior to the issuance of a Final Public Report for the project shall constitute a "reservation" and not a "binding contract" for the purchase of an apartment.

(2) The seller makes no warranties, express or implied, with respect to the apartments, the project, or consumer products or other things installed therein, including warranties of merchantability, habitability, workmanlike construction, or fitness for a particular use. The seller does, however, agree to attempt to pass through to the purchaser the benefit of the general contractor's warranties, if any, and also the unexpired term, if any, of any assignable manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances in the apartment.

(3) The seller may cancel the Reservation and Sales Agreement and hold the purchaser in default if any material discrepancies are discovered between the financial information furnished by the purchaser and the purchaser's actual financial status. Seller may also cancel if the purchaser's application or eligibility for a mortgage loan is rejected or not given unqualified approval within sixty (60) days after application.

(4) The seller's mortgage loan (interim, renewals and extensions, used for acquiring the land, constructing the project, and associated costs) shall be and remain at all times a lien or charge on the project, including the individual apartments prior to and superior to any and all other liens or charges on the project, and purchasers intentionally waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest they may have under the Reservation and Sales Agreement in favor of the lien or charge on the project of the security interest of the lender. The purchasers also consent to the assignment for security of seller's interest in the Reservation and Sales Agreement and purchasers' escrow deposits to lender. The purchasers also irrevocably appoint the Managing Agent to receive and accept service of process on behalf of the purchasers.

(5) The seller makes no representations with respect to the possibility or probability of rental or other income from the apartment or other economical benefits to be derived from the rental of the apartment, including but not limited to, any representations to the effect that seller or the Managing Agent of the project or a third party will provide services relating to the rental or sale of the apartment nor representations as to possible advantages from the rental of the apartment under federal or state tax laws.

(6) The purchaser will pay all closing costs, including but not limited to, the escrow fee, conveyance taxes, all acknowledgment fees, all appraisal fees, all recording costs, charges for purchaser's credit report, costs for

drafting of the mortgage and notes, and any assignment thereof, and costs for any title insurance.

(7) In the event development and construction of the project is delayed due to governmental restrictions or regulations enacted after the date of the Reservation and Sales Agreement, or by occurrence of a contingency, the non-occurrence of which was a basic assumption upon which the contract was made, and seller determines that increases in development and construction costs because of such delay require increases in sales prices to maintain financial feasibility of the project, then and in any such event, and provided the sale of the property has not finally closed and the apartment deed has not been filed, seller may increase the total purchase price hereinabove stated only to the extent necessitated by said increases in development and construction costs and seller shall notify purchaser in writing of any such increase in the total purchase price.

It is incumbent upon purchasers and prospective purchasers to read with care the specimen Reservation and Sales Agreement and the executed Escrow Agreement. The Escrow Agreement establishes how the proceeds from the sale of the condominium apartments are placed in trust, as well as the retention and disbursement of funds.

MANAGEMENT AND OPERATION: The proposed By-Laws provide that the operation of the project shall be conducted for the Association of Apartment Owners by a responsible corporate Managing Agent. The Managing Agent shall be appointed by the Association in accordance with the By-Laws, except that the Managing Agent for the initial period following the date of the organization of the Association of Apartment Owners may be appointed by the Developer without necessity of confirmation by the Association. The initial Managing Agent has not yet been finally selected.

LAND TRUST. In the event title to any apartment and its appurtenant common interest is transferred to a trustee under a land title holding trust under which substantially all powers of management, operation and control of the apartment remain vested in the trust beneficiary or beneficiaries, the trust estate and the beneficiaries thereunder from time to time shall be liable for and shall pay all common expenses and all other charges, costs and expenses assessed against such apartment or the owner thereof pursuant to the Declaration, the By-Laws, the Rules and Regulations (House Rules) or the Horizontal Property Act. No claim for payment of common expenses or other charges, costs or expenses shall be made against any such trustee personally and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or assessment, but the amount thereof shall constitute a lien on the apartment as provided in the Declaration, the By-Laws, and the Horizontal Property Act, notwithstanding any transfer of beneficial interest under such trust.

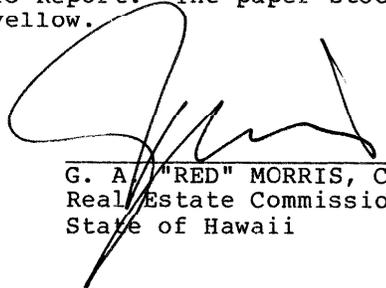
MANAGER'S APARTMENT: There is a Manager's Apartment in the first phase of the Project which may be conveyed to the Association by the Developer. In any event of the merger of the phase described in this report with the first phase of the

Project, the cost of maintaining the Manager's Apartment, together with all other costs of ownership, will be borne by all of the owners in the merged phases.

STATUS OF THE PROJECT: The Developer advises that there is no set date for the commencement of construction.

The purchaser or respective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the Notice of Intention submitted on January 11, 1985, and information subsequently filed as of February 14, 1985.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of Registration No. 1663 filed with the Commission's Public Report. The paper stock used in making facsimiles must be yellow.



G. A. "RED" MORRIS, Chairman
Real Estate Commission
State of Hawaii

DISTRIBUTION:

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

Registration No. 1663

February 21, 1985

EXHIBIT "A"

Layout, Number of Rooms, Approximate Area and Appurtenant Common Interest of Residential Apartments

Apartments 1901, 1902, 1903, 1904, 2001, 2002, 2003, 2004, 2101, 2102, 2103, 2104, 2201, 2202, 2203, 2204, 2401, 2402, 2403, 2404, 2501, 2502, 2503, 2504, 2601, 2602, 2603, 2604, 2701, 2702, 2703, 2704, 2901, 2902, 2903, 2904, 3001, 3002, 3003, 3004, 3101, 3102, 3103, 3104, 3201, 3202, 3203 and 3204 have a livingroom, dining room, kitchen, entry foyer, utility room, two bedrooms (one of which may have a separate dressing area), lady's and gentlemen's bath or a master bath, hallway, alcove, mauka lanai and makai lanai.

Apartments 2402, 2404, 2502, 2504, 2602, 2604, 2702, 2704, 3102 and 3104 have, in addition to the rooms described in the first paragraph above, a mezzanine area with a makai lanai which may contain any number of different types of rooms and layouts including (1) an open area; (2) a master suite or two bedrooms plus two bathrooms; (3) a master suite or two bedrooms plus a bathroom and walk-in or dressing closet; and (4) a master suite or two bedrooms plus a bathroom and storage closet.

Apartments 2401, 2403, 2501, 2503, 2601, 2603, 2701, 2703, 3101 and 3103 have, in addition to the rooms described in the first paragraph above, a basement consisting of (i) an open area; (ii) a wet bar and storage area plus an open-area; or (iii) a bathroom plus an open area.

Apartments 2301, 2302, 2303, 2304, 2801, 2802, 2803, 2804, 3301, 3302, 3303, 3304, 3401, 3402, 3403 and 3404 have a livingroom, dining room, kitchen, entry foyer, two bedrooms, two bathrooms, utility room, mauka and makai lanais.

The following is a summary of the approximate floor area of each residential apartment and the common interest appurtenant to the respective apartments:

<u>Apt. No.</u>	<u>Type</u>	<u>APPX. NET FLOOR AREA*</u> (square feet)			<u>APPX. GROSS FLOOR AREA**</u> (square feet)			<u>Common Interest (each apartment)***</u>
		<u>Interior</u>	<u>Lanai</u>	<u>Total</u>	<u>Interior</u>	<u>Lanai</u>	<u>Total</u>	
1901,2001, 2101,2201, 2901	BR-L-2	1485	560	2045	1566	560	2126	1.15253
1902,2002, 2102,2202, 2902,3002	BR-U-2	1485	347	1832	1566	347	1913	1.15253
1903,2003, 2103,2203, 2903	B-L-1	1473	560	2033	1552	560	2112	1.14222
1904,2004, 2104,2204, 2904	B-U-1	1473	347	1820	1552	347	1899	1.14222
2301,2801, 3301,3401	AR-L	1287	545	1832	1353	545	1898	.99577

2302,2802, AR-U	1287	337	1624	1353	337	1690	.99577
3302,3402							
2303,3403 A-L-X	1287	655	1942	1353	655	2008	.99577
2304,2804, A-U	1287	337	1624	1353	337	1690	.99577
3304,3404							
2401,2501, DR-L-2	2397	732	3129	2545	732	3277	1.87304
2601							
2402,2502, DR-U-2	2282	529	2811	2394	529	2923	1.76191
2602							
2403,2503 D-L-1	2385	732	3117	2531	732	3263	1.86273
2603 D-L-1-O	2385	652	3037	2531	652	3183	1.86273
2404,2504, D-U-1	2270	529	2799	2380	529	2909	1.75159
2604							
2701,3101 DR-L-1	2385	652	3037	2531	652	3183	1.86273
2702,3102 DR-U-1	2270	529	2799	2380	529	2909	1.75159
2703,3103 D-L-2	2397	652	3049	2545	652	3197	1.87304
2704,3104 D-U-2	2282	529	2811	2394	529	2923	1.76191
2803,3303 A-L	1287	545	1832	1353	545	1898	.99577
3001,3201 BR-L-1	1473	560	2033	1552	560	2112	1.14222
3003,3203 B-L-2	1485	560	2045	1566	560	2126	1.15253
3004,3204 B-U-2	1485	347	1832	1566	347	1913	1.15253
3202 BR-U-1	1473	347	1820	1552	347	1899	1.14222

* The approximate net floor area of each apartment as set forth above is measured from the interior surface of the apartment perimeter walls and includes all of the walls and partitions within its perimeter walls, whether load-bearing or non-load bearing.

** The approximate gross floor area of each apartment as set forth above includes all of the walls and partitions within its perimeter walls, the entirety of its perimeter non-party walls, and the interior half of its perimeter party walls, whether load-bearing or non-load bearing.

THE AREAS SHOWN ARE APPROXIMATE ONLY, AND THE DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE AREA OF ANY PARTICULAR APARTMENT.

*** The common interest for each apartment (including garage apartments) was calculated by dividing the approximate gross interior floor area of the particular apartment by the total approximate gross interior floor area for all apartments and, by thereafter arbitrarily adding .00001% to the common interest for apartments 1901, 1902, 1903, 1904, 2001, 2002, 2003, 2004, 2101, 2102, 2103, 2104, 2201, 2202, 2203, 2204, 2301, 2302, 2303, 2304, 2401, 2402, 2403, 2501, 2502, 2503, 2601, 2602, 2603, 2701, 2703, 2704, 2801, 2802, 2803, 2804, 2901, 2902, 2903, 2904, 3001, 3002, 3003, 3004, 3101, 3103, 3104, 3201, 3202, 3203, 3204, 3301, 3302, 3303, 3304, 3401, 3402, 3403, 3404 in order that the common interest for all apartments may total 100%.