

**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

THE HEIGHTS AT WAILUNA, INCREMENT 3  
Mauka End of Kaahumanu Street  
Waiiau, Ewa, Oahu

Registration No. 1734

**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: January 28, 1986  
Expires: February 28, 1987

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 17, 1986. 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. THE HEIGHTS AT WAILUNA, INCREMENT 3 is a proposed leasehold condominium project consisting of thirty (30) detached single family one and two story homes to be built in accordance with preliminary floor plans filed with the Real Estate Commission. Each unit will have a two-car garage that is a part of the apartment. There will be no guest parking stalls.

2. No advertising and promotional matter, other than the Condominium Pre-Sale Offering to Owner-Occupants required under Act 189, has been filed pursuant to the rules and regulations promulgated by the Commission.

3. 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.

4. The basic documents (Declaration of Horizontal Property Regime, Bylaws of Association of Apartment Owners, and a copy of the floor plans) have not been filed as of this date in the office of the recording officer.

5. Each residential apartment owner shall be a member of the Wailuna Recreation Association, a Hawaii nonprofit corporation.

6. 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 relate to Horizontal Property Regimes.

7. This Preliminary Public Report is made a part of the registration of THE HEIGHTS AT WAILUNA, INCREMENT 3 condominium project. The Developer shall be responsible for placing this Preliminary Public Report (yellow paper stock) and the Disclosure Abstract in the hands of all purchasers and prospective purchasers and securing a signed receipt therefor.

8. This Preliminary Public Report automatically expires thirteen (13) months after date of issuance, January 28, 1986, unless a Final or Supplementary Public Report is issued or the Commission, upon review of this registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE HEIGHTS AT WAILUNA, INCREMENT 3

LOCATION: The project is located at the mauka end of Kaahumanu Street, Waiau, Ewa, Oahu, and is situate on one (1) parcel of land consisting of 8.929 acres, more or less.

TAX KEY: First Division, 9-8-02-53(1); (Lot IID).

ZONING: A-1 (Low density apartment).

DEVELOPER: Lusk-Hawaii, a division of THE LUSK COMPANY (formerly known as John D. Lusk & Son), a California corporation authorized to do business in the State of Hawaii,

whose principal place of business in said State is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813 (Telephone No: 537-4972).

The officers of the corporation are:

JOHN D. LUSK	Chairman of the Board and Chief Executive Officer
WILLIAM D. LUSK	Vice Chairman of the Board
DONOVAN D. HUENNEKENS	President
GEORGE W. LUSK	Senior Vice President
DONALD D. STEFFENSEN	Senior Vice President and Assistant Secretary
JAMES C. WAPLES	Senior Vice President and Assistant Secretary
HARRY O. MERRILL	Vice President and Assistant Secretary
ERNEST A. HARRIS	Vice President
JOHN C. HALL	Vice President
NANCY K. LUSK	Vice President
J. MICHAEL WEST	Vice President and Assistant Secretary
MARVIN C. STEADMAN	Vice President
GORDON E. DUNFEE	Division Vice President
RICHARD T. DEIHL	Secretary
W. KENT WEATHERS	Treasurer

ATTORNEY REPRESENTING DEVELOPER: Damon, Key, Char & Bocken, 1600 Pauahi Tower, 1001 Bishop Street, Honolulu, Hawaii 96813 (Attn: Charles W. Key), Telephone No: 531-8031.

DESCRIPTION OF THE PROJECT: The proposed Declaration of Horizontal Property Regime indicates that the project will consist of thirty (30) freehold estates (herein called "apartments") consisting of thirty (30) separate single family dwelling units numbers "1", through "30", as shown in Column 1 of EXHIBIT "A" attached hereto and made a part hereof, each located within and situated upon certain specific delineated land areas shown on the proposed Condo Map. Each apartment consists of all improvements comprising the dwelling unit within each of said land areas, and said apartment further consists of all other improvements within each of said land areas that do not service any other apartment.

The various separate land areas numbered "1" through "30" as shown on the proposed Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment.

The dwelling units are of double wall wood frame construction on concrete slab with a composition roof, and are principally constructed of wood, interior drywall partitions, exterior masonite siding or lath and plaster siding, glass, aluminum and appropriate trim. There are no basements.

There are five types of dwelling units shown on said Condo Map. These six types of dwelling units are designated by 1, 4, 5, 7 or 7M, and the type of dwelling unit comprising each apartment is set forth on EXHIBIT "A" attached hereto and made a part hereof.

The number of rooms and stories of each type of dwelling unit is set forth below:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>7</u>	<u>7M</u>
Number of Rooms	7	9	8	8	8
Number of Stories	1	2	2	2	2

The approximate net living area of each type of dwelling unit consisting of the enclosed portion of the dwelling unit measured from the interior surface of the dwelling unit perimeter walls and the garage is set forth below in square feet:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>7</u>	<u>7M</u>
Net living area:	1,135	1,448	1,302	1,344	1,344
Garage:	<u>435</u>	<u>423</u>	<u>467</u>	<u>415</u>	<u>415</u>
TOTAL	<u>1,570</u>	<u>1,871</u>	<u>1,769</u>	<u>1,759</u>	<u>1,759</u>

Each of the apartments has immediate access to driveways on the grounds of the Project and to a public street.

COMMON ELEMENTS. The proposed Declaration of Horizontal Property Regime states that the common elements shall include all of the remaining portions and appurtenances of the Project, including specifically, but not limited to:

(a) The land described in fee simple;

(b) All yards, grounds and landscaping, roads, the sidewalks within the road areas, walls, fences, and driveways. (NOTE: all the foregoing is as shown on said proposed Condo Map except for the landscaping. The fences and walls and sidewalks within the road that are common elements are shown on the Site Plan which is a part of said Condo Map);

(c) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities,

installations over, under and across the land of the project which serve more than one apartment for services such as power, light, water, gas, drainage, sewer, telephone and radio and television signal distribution (NOTE: There are conduits within the Condo lots that are common elements, and there are conduits and a low voltage power source in the utility closets within the garage of each apartment that are also common elements);

(d) The rain gutters and downspouts on the roof of each apartment adjacent to the common boundary line and the water drainage patterns on the surface of each condo lot; and

(e) Any and all apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS. Certain parts of the common elements, 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, as follows:

(a) The various separate land areas numbered "1" through "30" as shown on said Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment. (NOTE: The limited common area designated as land areas 1 through 30 are sometimes herein referred to as a Condo lot.)

(b) The driveway extending from the road within the project to the garage of each dwelling unit is a limited common element on said apartment.

(c) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited to the use of such apartments.

All limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of the Declaration.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project and the same proportionate share in all common profits and expenses of the project and for all other purposes, including voting, as set forth in Exhibit "A".

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Homes shall be occupied and used only for residential purposes and no

dwelling unit shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The Homes shall not be rented for transient or hotel purposes, which are defined as (1) rental for any period less than thirty (30) days; or (2) any rental in which the occupants of the Homes are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The Homes or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership", or "time-interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess a Home or Homes in the project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise. Except for the foregoing, the owners of a Home shall have the absolute right to lease such Homes. House Rules have been submitted as of this date and purchasers are urged to inquire about same before waiving rights of cancellation on receipt of the Final Public Report.

MERGER OF ADDITIONAL INCREMENTS: One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

Notwithstanding any provision to the contrary herein contained, or the documents submitted, the Developer has expressly reserved the right, without the consent or joinder of persons then owning or leasing apartments in the Project, to merge this Project with the two condominium projects known as "The Heights at Wailuna, Increment 1" and "The Heights at Wailuna, Increment 2" to permit the joint use of the common elements of the merged projects by all the apartment owners of the projects.

DISCLOSURES, EASEMENTS AND RESERVATIONS: Notwithstanding any of the other terms and conditions of the Declaration or the By-Laws, Developer may use any and all apartments for sales purposes. The Developer has also disclosed that Developer intends on constructing and selling additional housing on lands adjoining the Project, and that the construction activity of Developer shall continue on the site of the Project and on

adjacent land after apartment owners occupy their apartments and that this activity may result in noise, dust or other annoyances to the apartment owners. The Developer has also made the following disclosures and reservations:

(a) Developer reserves the right for itself and its employees, subcontractors, vendors and suppliers to use the common elements for access to construction areas within the Project and on adjacent land;

(b) Developer reserves the right to conduct sales activities, including the use of model dwelling units, signs and extensive sales displays and activities in the Project until Developer ceases development of additional housing in the vicinity of the Project; and

(c) Developer reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to unsold apartments within the Project and within land areas in the vicinity of the Project in order to show apartments to prospective buyers.

In addition, purchasers should be aware that the proposed Declaration of Horizontal Property Regime contains the following reservation and exception:

"SUBJECT ALSO, to, and excepting and reserving all rights-of-way, reservations, and easements shown on the Condominium Map or heretofore or hereafter granted, conveyed, leased or required to construct, install, operate, maintain, repair and replace lines and other transmission facilities and appurtenances for roads, sidewalks, access, electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities over, across and under said property, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to convey, grant or lease to any public utility, governmental authority, the Association, State of Hawaii, City and County of Honolulu, Board of Water Supply, or in favor of land in the general vicinity of the land being hereby submitted to the Horizontal Property Regime, or other corporation or entity such easements, reservation, roads, sidewalks, access, rights and rights-of-way under the terms and conditions required by the grantee or lessee for such rights; provided, however, that such easements, rights and rights-of-way must be exercised in such manner as to not unreasonably interfere with the use of the land being hereby submitted to the Horizontal Property Regime, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements, rights and rights-of-way, the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights

to the condition of the premises immediately prior to the exercise thereof."

WAILUNA RECREATION ASSOCIATION: Wailuna Recreation Association, a Hawaii nonprofit corporation, has been formed to hold a Bishop Estate lease to the parking apartment consisting of twelve (12) parking stalls within the condominium project known as WAILUNA I and to hold two Bishop Estate leases for three (3) parks for use by the owners of apartments in the project known as WAILUNA consisting of 364 apartments and owners of apartment in this Project, and for use by owners of apartments in any additional projects developed on adjacent property. The three (3) private parks are briefly described as follows:

(a) An active park on about 0.622 acres of land consisting of certain landscaping, a recreation center, swimming pool and accessory items.

(b) A passive park on approximately 16.5 acres, which shall remain in its natural state and will not be improved.

(c) An active park on approximately 0.562 acre of land consisting of certain landscaping, two tennis courts and accessory items.

The Developer has informed the Commission that it intends (but is not obligated) to develop additional projects on adjoining lands and that it may (but is not obligated) to construct additional private parks for use by residential apartment owners.

Each residential apartment owner shall be a member of Wailuna Recreation Association, a Hawaii nonprofit corporation, and each residential apartment owner shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in said corporation shall automatically cease. Such membership shall be appurtenant to and may not be separate from ownership of a residential apartment and shall be deemed to be conveyed or encumbered with the residential apartment even though such membership is not expressly mentioned or described in the conveyance or other instrument.

OWNERSHIP OF LAND: The Developer has submitted to the Commission a status title report dated November 29, 1985, prepared by Title Guaranty of Hawaii, Incorporated. This report reflects that the fee simple title to the land on which the project will be situated is owned by the Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased and that the Sublessee is John D. Lusk & Son (now known as The Lusk Company), a California corporation.

ENCUMBRANCES AGAINST TITLE: Said status title report dated November 29, 1985 reflects that the title to said land is subject to:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT:  
MORTGAGOR : JOHN D. LUSK & SON, a California corporation  
MORTGAGEE : BANK OF HAWAII, a Hawaii banking corporation  
DATED : March 22, 1985  
RECORDED : Liber 18561 Page 752
3. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT:  
MORTGAGOR : JOHN D. LUSK & SON, a California corporation  
MORTGAGEE : BANK OF HAWAII, a Hawaii banking corporation  
DATED : April 10, 1985  
RECORDED : Liber 18600 Page 13
4. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT:  
MORTGAGOR : JOHN D. LUSK & SON, a California corporation  
MORTGAGEE : BANK OF HAWAII, a Hawaii banking corporation  
DATED : June 26, 1985  
RECORDED : Liber 18776 Page 427
5. Easement "7" for access purposes, containing an area of 963 square feet.
6. Easement "1" for road and utility purposes, containing an area of 30,554 square feet.
7. Agreement for Issuance of Special Use Permit under section 21-2.71 of the Comprehensive Zoning Code of the City and County of Honolulu dated December 17, 1981, recorded in Liber 16210 at Page 17, as amended by instruments dated June 15, 1982, recorded in Liber 16546 at Page 182, and dated June 15, 1982, recorded in Liber 16609 at page 600.
8. Terms, agreements, reservations, covenants, conditions and provisions contained in Lease dated April 3, 1985 between Trustees of the Estate of Bernice Pauahi Bishop, "Owners", and Lear Siegler, Inc. and Lear Siegler Properties, Inc., both Delaware corporations, "Tenant", as Lessor and John D. Lusk & Son, a California corporation as Lessee, recorded in Liber 18561, Page 710.

9. For any taxes that are due and owing, reference is made to the Office of the Tax Assessor, First Division.
10. Declaration (Wailuna, Top of the Ridge) dated March 8, 1983, recorded in Liber 18437 at Page 711.

In addition to the foregoing, the Developer has advised that the following mortgage was placed on record subsequent to the date of said status title report:

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT:

MORTGAGOR : JOHN D. LUSK & SON, a California corporation

MORTGAGEE : BANK OF HAWAII, a Hawaii banking corporation

DATED : December 6, 1985

RECORDED : Liber 19158 Page 41

Also, the restrictive covenants and conditions for Wailuna Recreation Association set forth in that certain Declaration recorded in Liber 14026 at Page 566, as amended by instruments recorded in Liber 14026 at Page 599, Liber 14933 at Page 634, Liber 15863 at Page 627, Liber 15871 at Page 265 and Liber 16324 at Page 164, encumbers the property. Also, all covenants, conditions, restrictions, easements, reservations and all other provisions set forth in the proposed Declaration of Horizontal Property Regime and By-Laws and Condominium Map will encumber the property on recordation thereof.

PURCHASE MONEY HANDLING: The Developer has submitted to the Commission a copy of Specimen Sales Agreement and an Escrow Agreement dated January 10, 1986, identifying Title Guaranty Escrow Services, Inc., as the Escrow Agent. Upon examination, the specimen Sales Contract and the executed Escrow Agreement are found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended.

It is incumbent upon the purchaser and prospective purchaser to read and understand the Escrow Agreement before executing the Sales Agreement, since the Escrow Agreement prescribes the procedure for receiving and disbursing purchasers' funds and the Sales Agreement specifically provides that funds may be disbursed for certain costs of the Project prior to completion of construction.

Among other things, the specimen Sales Agreement provides that:

1. The Sales Agreement shall not be construed as a present transfer of any interest in the property covered by the Sales Agreement, but rather it is an agreement to transfer in the future; that the purchaser acknowledges and agrees that all security interests obtained by the Lender in connection with the loan for construction costs, costs of acquiring Developer's interest in the Project and other associated costs of the

Project, as well as any extensions, renewals and modifications thereof shall be and remain at all times a lien or charge on the Project, including the Property covered by the Sales Agreement, prior to and superior to any and all liens or charges on the Project arising from the Sales Agreement or any other prior reservation agreement.

2. The Developer has made no representations with respect to the possibility or probability of rental "or other income from the apartments, or other economical benefits to be derived from the rental of the apartment, including but not limited to, any representations to the effect that Developer or the managing agent of the Project will provide services relating to the rental or sale of the apartments nor representations as to possible advantage from the rental of the apartments under federal or state tax laws." If a purchaser wishes to rent his apartment to third persons, purchaser must make his own arrangements.

3. The purchaser agrees for a period of two (2) years from and after the closing date that the purchaser shall not place anywhere within the project any "For Sale" or "For Rent" signs.

4. Any provisions in the Sales Agreement to the contrary notwithstanding, the Sales Agreement shall not become binding upon the Seller or Buyer until:

(a) A true copy of the real estate commission's final report on the Project has been delivered to the Buyer, either personally or by registered or certified mail with return receipt requested, together with a true copy of all other public reports thereon, if any, issued prior to the date of such delivery and not previously delivered to the Buyer;

(b) The Buyer has been given an opportunity to read the reports; and

(c) The Buyer (i) executes a RECEIPT AND NOTICE AND NOTICE OF RIGHT TO CANCEL; and (ii) waives his right to cancel; provided that if the Buyer does not execute and return the receipt and notice within thirty days from the date of delivery of such reports, or if the apartment is conveyed to the Buyer prior to the expiration of such thirty-day period, the Buyer shall be deemed to have accepted for the reports and to have waived his right to cancel.

In the event Seller should cancel the Sales Agreement before it becomes binding upon both the Seller and Buyer, Buyer shall be entitled to the return of all of Buyer's funds. In the event Buyer should terminate the Agreement before it becomes binding upon the Seller and the Buyer, Buyer shall be entitled to the return of all Buyer's funds, without interest, less any escrow cancellation fees and other costs, up to \$250.00. In the event the Agreement is cancelled under the provisions of this paragraph, both parties shall be released from all obligations with respect to the Agreement.

5. All taxes, assessments and charges of any kind assessable against the Property shall be payable according to the terms of the proposed Declaration and ByLaws, and will be prorated between Developer and Purchaser as of the final closing date. Purchaser shall pay all closing costs in connection with the sale, including without limitation, escrow fees, preparation of the conveyance, preparation of any agreement of sale, preparation of any land trust and related documents, State of Hawaii conveyance tax, preparation of any mortgages and all costs related to obtaining the mortgage, all acknowledgment fees, all recording fees, the escrow fee and any proof of title, including the cost of any title insurance premiums, and certain prepayments, all as set forth in the Agreement.

The Escrow Agreement provides, in part: "A purchaser shall be entitled to a return of his funds and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised his right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or

(d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.

(e) In any of the foregoing events, Escrow shall, upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from purchaser upon the occurrence of an event described in (c) or (d) above, unless the purchaser has waived or has been deemed to have waived the right to a refund, pay said funds to said purchaser (less a cancellation fee of Escrow of not less than \$25.00 per unit or a cancellation fee commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater) and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held; provided, however, that no refund shall be made to purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

(f) Notwithstanding any other provision in the Agreement to the contrary, Escrow further agrees to make refunds to purchasers, in accordance with Part VI, Chapter

514A, Hawaii Revised Statutes, out of the funds then on deposit with Escrow, if the Developer and purchaser shall so request in writing and any one of the following events has occurred:

(i) no sales contract has been offered to the purchaser who has been placed on the Developer's reservation list of owner-occupant applicants; or

(ii) purchaser has been unable to obtain adequate financing, or a commitment for adequate financing, for his unit within thirty (30) calendar days following the end of the ten (10) calendar day period during which the Developer is limited to selling to owner-occupant; or

(iii) The purchaser desires to cancel the contract on account of hardship circumstances such as those set forth in Section 514-A-104(1), Hawaii Revised Statutes; or

(iv) the purchaser indicates an intent not to become an owner-occupant of such unit.

Except for cancellations under subparagraph (i) above, Escrow may deduct from any such refund made to a purchaser a cancellation fee as set forth above."

ALTERATION OF PROJECT: The proposed Declaration of Horizontal Property Regimes states that any restoration or replacement of any building or any construction of additional buildings or structural alteration or any addition to structure of material different from that shown on the Condominium Map will require the approval of the Board of Directors of the Association of Apartment Owners and by filing an amendment to the Declaration of Horizontal Property Regime and the Condominium Map.

Any restorations or rebuilding of improvements within an apartment or any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of such apartment shall require only the prior written approval of the Board.

PROPERTY MANAGEMENT: Developer has submitted to the Commission copies of two agreements entitled "Agency and Property Management Agreement", which were executed by the Developer on behalf of the Association of Apartment Owners with Certified Management, a division of AR Corporation, as Agent. Said Agreements provide for property management of THE HEIGHTS AT WAILUNA, INCREMENT 3 and for WAILUNA RECREATION ASSOCIATION. The address of Certified Management is 98-1238 Kaahumanu Street, Suite 404, Pearl City, Hawaii 96782, and its telephone number is 487-7941.

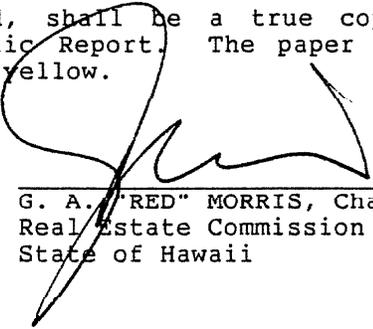
STATUS OF THE PROJECT: The Developer has stated that all site work for the Project has been completed, and that construction of the other improvements of the Project began in November, 1985, and the estimated date of completion is about May 30, 1986.

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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 on January 17, 1986.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1734 filed with the Commission on January 17, 1986.

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



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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. 1734

January 28, 1986

THE HEIGHTS AT WAILUNA, INCREMENT 3  
(a Leasehold Condominium)

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percentage Ownership of Common Elements</u>
1	4	0.33%
2	1	0.33%
3	5	0.33%
4	7	0.33%
5	4	0.33%
6	7	0.33%
7	5	0.33%
8	4	0.33%
9	7M	0.33%
10	5	0.33%
11	1	0.33%
12	5	0.33%
13	7	0.33%
14	5	0.33%
15	1	0.33%
16	5	0.33%
17	7	0.33%
18	5	0.33%
19	7	0.33%
20	1	0.33%
21	4	0.34%
22	7	0.33%
23	5	0.33%
24	7	0.33%
25	5	0.33%
26	7	0.33%
27	1	0.33%
28	4	0.33%
29	5	0.33%
30	7	0.33%
	TOTAL	100.00%

Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" this reflects a modified location of the garage.

THE HEIGHTS AT WAILUNA, INCREMENT 3  
 LEASEHOLD CONDOMINIUM  
 DEVELOPER'S DISCLOSURE ABSTRACT  
 (EXHIBIT A - NEW HOME LIMITED WARRANTY;  
EXHIBIT B - PROPOSED OPERATING BUDGET FOR THE PROJECT)

Name of Project: THE HEIGHTS AT WAILUNA, INCREMENT 3  
 At the Mauka End of Kaahumanu Street  
 Pearl City, Hawaii 96782

Developer and Project Manager: LUSK-HAWAII, a Division of The Lusk Company,  
 formerly known as John D. Lusk & Son  
 Suite 1618, Davies Pacific Center  
 841 Bishop Street  
 Honolulu, Hawaii 96813  
 Telephone No. 537-4972

Number of Apartments and Use:

There are thirty (30) residential apartments in the project. The residential apartments shall be occupied and used only for residential purposes by the respective owners thereof, their tenants, families, domestic servants and personal guests and shall not be used for transient or hotel purposes.

Warranties:

The Developer's warranty policy is attached hereto as Exhibit "A". THE DEVELOPER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY OR ANY COMMON ELEMENT OR ANYTHING INSTALLED THEREIN.

Breakdown of Annual Maintenance Fees and Monthly Estimated Costs of the Project Payable by Each Apartment:

Attached hereto as Exhibit "B" is a copy of the initial estimated operating budget for the Association of Owners of the Project, and the breakdown of annual maintenance fees and monthly estimated costs of each apartment, which was prepared by Certified Management, a division of AR Corporation.

Payment of Maintenance Fees:

The Developer shall pay all of the actual common expenses of the project for a certain period of time. The apartment owner shall not be obligated for the payment of his respective share of the common expenses until the Developer files an Amended Disclosure Abstract with the Real Estate Commission, which shall provide that, after a date certain, the respective apartment owner shall thereafter be obligated to pay for his respective share of the common expenses that is allocated to his apartment. The Amended Disclosure Abstract shall be filed at least thirty (30) days in advance with the Real Estate Commission and after the filing a copy of the Amended Disclosure Abstract shall be delivered either by mail or personal delivery to each of the apartment owners in the project.

Please note that the Developer will not pay the monthly maintenance fee payable to Wailuna Recreation Association. The payment of this fee will be the responsibility of each apartment owner.

Breakdown of the Annual Maintenance Fees and Monthly Estimated Costs of the Project and WAILUNA RECREATION ASSOCIATION Payable by Each Residential Apartment:

	<u>Monthly</u>	<u>Annually</u>
The Heights at Wailuna	\$51.00	\$612.00
Wailuna Recreation Association	<u>19.00</u>	<u>228.00</u>
TOTALS	<u>\$70.00</u>	<u>\$840.00</u>

DATED: Honolulu, Hawaii, November 18, 1985.

WAILUNA

New Home Limited Warranty

IMPORTANT: Sales representatives are not authorized to modify or add to the terms of this warranty policy. The Builders standard New Home Limited Warranty Policy is as follows:

1. Subject to the provisions of this policy, we will correct any defect in the structural components of your home due to faulty materials or workmanship of which we receive written notice during the one-year period following the date of close of escrow, or the date you take possession, whichever occurs earlier (the "warranty year"). The foregoing shall only apply to the structural components of your home which include the walls, wall covering, floors, ceilings, roof, doors, cabinets, shelves, closets, patios, balconies, bathroom fixtures, railings, shingles, gutters and windows. The foregoing shall also apply to the structural components of the plumbing, electrical, heating and air conditioning systems (if any) which include such things as ducting, wiring and pipes. This warranty shall not extend to any portion of the plumbing, electrical, heating and air conditioning systems which are not a part of the structural component of your home or which carry an express warranty by the manufacturer thereof. The structural component does not include any appliances, equipment or other "consumer" items which may be attached to the structural component, such as a smoke alarm installed in a bearing wall or the water heater attached to the hot water pipes. These consumer items are not a part of the structural component for the purposes of the Warranty, but they are generally warranted by the manufacturers thereof and you should look directly to the manufacturers for service on these items. Obviously, any item can be a "consumer" item depending on how it is sold, but we consider an item to be part of the structural component of your home if it has no separate function other than as part of the house. If a defect appears which the owner thinks is covered by the Limited Warranty, he must notify us in writing of the defect within a reasonable time following its discovery, but in no event later than one (1) week after the end of the applicable warranty period. Upon receipt of a written report of a defect, if the defective item is covered by this Limited Warranty, we will repair or replace it at no charge to the homeowner, within sixty (60) days (longer if weather conditions, labor problems or material shortages cause delays). The work will be done by us, or by a subcontractor of our choice. The choice between repair or replacement is also ours. Our sole responsibility under this warranty shall be to restore your home to the condition existing at the time the defect occurred. We do not take responsibility for any secondary damage caused by the defect, including, without limitation, damage to your personal property.

2. We will warrant all concrete, brick, stone and other masonry against substantial defects for a period of one (1) year. However, we will repair only those cracks in house slabs, basement floor and walls, garage slabs, walks and other masonry which substantially interrupt the plane of surface or affect its structural value and integrity. We will not assume responsibility for hairline cracks in concrete, plaster,

drywall, masonry, ceramic tile and other rigid materials which occur due to normal expansion, contraction and settlement; the foregoing shall, without limitation, apply to hairline cracks in walls, driveways, garage floors, patios, and balconies, and to ceramic tile in the kitchen, shower, bathroom and entryway areas. We will not be responsible for and will not repair minor separation of ceramic tile grout at the tub line or at the intersection of a wall and floor where it is adjoined with other material resulting in loose grout.

3. We will make minor repairs such as doors sticking, cabinet drawer adjustments, failure of electrical plugs and operating fixtures, leaking faucets, tile caulking and the like only if brought to our attention in writing during the thirty (30) day period following the close of escrow or the date you take possession, whichever occurs first.

4. We will only correct defects or smudges of painted surfaces, counter tops, chipping of porcelain or tile in the kitchen, sinks, bathtub or elsewhere, chipped or otherwise defective surfaces of plumbing fixtures, torn or defective screens, defects in cabinet surface or finish, broken window or mirrored glass or similar defects readily visible to the human eye which go beyond industry standards or normal production tolerances and which are noted at the time of your Pre-move-in Inspection. The foregoing does not apply to hairline cracks in rigid materials which are covered above.

We will not be responsible for normal fading, chalking, or checking or paint or stucco which is not in excess of industry standards, which may occur due to sunlight or exposure to the elements. Where we do engage in paint and stucco repairs or patching, we do not warrant that the new paint or stucco will match perfectly with the old.

5. Plumbing drains are tested for proper operating before occupancy and we will only take responsibility for stoppages which are reported to us in writing within thirty (30) days after you take possession of your home. We will warrant the structural components of the plumbing system to be in proper working order and free from defective materials and workmanship for a period of one (1) year; provided, however, that normal maintenance items such as toilet adjustments and repair of dripping faucets are limited to a thirty (30) day warranty period. This warranty does not extend to the water heater or external plumbing fixtures, or any other portion of the plumbing system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this Warranty include the system or any of its parts which became defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents. Any costs we incur to eliminate a stoppage, whether or not reported within the thirty (30) day period, resulting solely from your use of the home will be billed to you.

6. We will warrant the electrical system for a period of one (1) year as follows: that the electrical system has been installed in accordance with good electrical practice and meets inspection agency standards. This warranty does not extend to the electrical system which is not a part of the structural

component of your home, including light bulbs and light fixtures, or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

7. We will warrant proper operation of the heating system, in the original finished room areas, for a period of one (1) year as follows: that the heating system has been installed in accordance with good heating practice and meets inspection agency standards. This warranty does not extend to the furnace or any other portion of the heating system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

8. We will warrant the air conditioning system, if included in the sale of the dwelling, for a period of one (1) year as follows: that the air conditioning system has been installed in accordance with good air conditioning practice and meets inspection agency standards. This warranty does not extend to the air conditioning system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

9. The provisions of this policy are not transferable and only extend to the original buyer of each home if such original buyer occupies the home as his principal residence or purchases with the intent to occupy as his principal residence. In any event, the warranty herein provided shall automatically terminate as to the home when the original buyer ceases to occupy the home, upon the sale (by grant deed, installment land sales contract or otherwise) or lease of the home by the original buyer, or upon the expiration of the warranty year, whichever first occurs. Steps taken by the Builder to correct any defects shall not extend the warranty year beyond its initial one (1) year term.

10. Except as provided herein, the Builder makes no express warranty as to materials or workmanship. Without limiting the generality of the foregoing, we make no express warranties as to any appliances, fixtures, carpeting or other consumer items installed in your home and which are not part of the structural component thereof, nor do we adopt any express or implied warranties made by the manufacturers of such items. Any warranty claims on such consumer items should be made directly to the manufacturer of a defective item and not to the Builder. Rights under these manufacturers' warranties flow directly from the manufacturer to you, and you should consult these warranties for the terms and periods of coverage. The following are examples of such warranties, though not every home includes all of these items and some homes may include appliances or equipment not in this list:

Refrigerator	Range	Space Heater
Furnace	Washing Machine	Hot Water Heater
Dryer	Dishwasher	Garbage Disposal
Ventilating Fans	Air Conditioner	Boiler
Heat Pump	Exhaust Fan	Electric Air Cleaner
Thermostat	Sump Pump	Humidifier
Central Vacuum System	Smoke Detector	Fire Alarm
Fire Extinguisher	Chimes	Garage Door Opener
Water Pump	Intercom	Burglar Alarm
Electric Meter	Water Meter	Gas Meter
Barbeque Grill	Whirlpool Bath	Water Heater
Water Softener	Freezer	Trash Compactor
Oven (and hood)	Ice Maker	

11. The provisions of this policy shall not extend to, and we shall not be responsible to repair any portion of your home, structural or otherwise, which you or your employees or contractors have modified or added to in any way, including without limitation attempted repairs.

The provisions of this policy also do not extend to damage due to ordinary wear and tear, damage due to lack of proper maintenance, or damage due to abusive or unwarranted use.

I (We) have received a copy of this policy.

BUYER:

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PROPOSED OPERATING BUDGET  
THE HEIGHTS AT WAILUNA  
INCREMENT 3

<u>ACCOUNT</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
Office & Admin Expense	\$ 20	\$ 240
Management Fee	250	3,000
Accounting/Audit Preparation	8	96
Electricity	150	1,800
Water	205	2,460
Sewer	225	2,700
Grounds Maintenance	730	8,760
Portable Equip Maint & Rpr	20	240
Custodial Svc & Supplies	15	180
General Maintenance	50	600
Fire Safety	3	36
General Excise Tax	5	60
SMP/Fire Insurance	350	4,200
Member Dues/Assessments	19	228
Eqp Prch/Impr/Major Proj	<u>50</u>	<u>600</u>
TOTAL DISBURSEMENTS	\$2,100	\$25,200

THE HEIGHTS AT WAILUNA EXPENSES, INCREMENT 3

<u>MAINTENANCE FEES</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
PER UNIT:	\$70	\$840

Includes recreation association dues

The undersigned certifies that the above schedule of annual maintenance fees and monthly estimated costs for The Heights at Wailuna, Increment 3 is based on generally accepted accounting principles.

CERTIFIED MANAGEMENT  
A Division of A R Corporation

Date: November 18, 1985

By: Robley W. Smith  
Its President

EXHIBIT "B"