

# REAL ESTATE COMMISSION

PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII

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

## FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT

on

GARDENIA MANOR  
Kailua, Koolaupoko, Oahu, Hawaii

Registration No. 494

### **IMPORTANT — Read This Report Before Buying**

#### **This Report Is Not an Approval or Disapproval of This Condominium Project**

It reflects information obtained by the Real Estate Commission in its investigation of the project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project until

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

Issued: September 21, 1973

Expires: October 21, 1974

#### SPECIAL ATTENTION

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

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED NOVEMBER 10, 1972, AND INFORMATION SUBSEQUENTLY FILED AS OF SEPTEMBER 21, 1973. THE DEVELOPER, IN NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF CHAPTER 514, HAWAII REVISED STATUTES.

1. GARDENIA MANOR is a proposed leasehold condominium project with a total of ninety-six (96) condominium townhouse and garden apartment dwelling units. There are 192 condominium parking stalls for apartment occupants. All parking stalls are covered. Included in the project are a swimming pool, wading pool, pavilion, bulk storage areas and recreation area.
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 Final Public Report.

3. The Commission has determined that the basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Owners and a copy of the floor plans) have been filed in the Office of the Recording Officer.

The Declaration of Horizontal Property Regime, executed on July 6, 1973, with the By-Laws attached, was recorded on August 6, 1973, in the Bureau of Conveyances of the State of Hawaii in Liber 9372 at Page 204.

The Registrar of Conveyances has assigned Condominium Map No. 296 to the project.

4. Advertising or promotional matter has been submitted pursuant to the rules and regulations promulgated by the Commission.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514, Hawaii Revised Statutes, and the Condominium Rules and Regulations which relate to Horizontal Property Regime.
6. This Final Public Report automatically expires thirteen (13) months after the date of issuance, September 21, 1973, unless a Supplementary Public Report issues or the Commission upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: GARDENIA MANOR

LOCATION: The 130,676 square feet of filled land committed to the project is situated on the northerly side of Kawainui Stream south of Kailua Road and westerly of Kailua Estates at Kailua, Koolaupoko, Oahu, Hawaii, and is identified as Lot 3 of File Plan 1283 filed in the Bureau of Conveyances of the State of Hawaii.

TAX MAP KEY: FIRST DIVISION 4-2-01-47

ZONING: Apartment District A-3

DEVELOPER: Lewers & Cooke, Inc., a Hawaii corporation whose principal place of business is 550 Paiea Street, Honolulu, Hawaii, is the Developer. Its officers are:

J. P. Burford	President
R. G. Rietow	Executive Vice President
R. C. Moore	Executive Vice President
J. J. Hulten, Jr.	Vice President & Secretary
J. J. Pappas	Vice President & Treasurer

The Master Lease made July 6, 1973, between the Executors of the Estate of Harold Kainalu Long Castle herein also referred to as Castle Estate, as Lessors, and Lewers & Cooke, Inc., as Lessees, has been submitted to the Commission for examination and as part of this registration.

ATTORNEY REPRESENTING DEVELOPER: John J. Hulten, Jr., 550 Paiea Street, Honolulu, Hawaii, Telephone: 847-9911.

DESCRIPTION: The recorded Declaration of Horizontal Property Regime reflects that the project consists of three (3) buildings and improvements to be constructed in accordance with plans previously filed with the Building Department of the City and County of Honolulu, now designated as Condominium Map No. 296. There are two (2) four story buildings of each of which the first story is a covered parking structure containing 96 parking stalls constructed principally of concrete, and the remaining

three (3) stories are apartment units constructed principally of wood. There is one (1) three story building containing apartment units constructed principally of wood. Each four story building contains an elevator which services all apartment units above the second floor by means of a corridor system.

The buildings have no identifying designation. Apartments 101 through 106 inclusive are on the first floor of the three story building. Apartments 201, 202, 203, 204, 205, and 206 are on the second floor of the three story building. Apartments 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, and 239 are on the second floor of the northernmost four story building. Apartments 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, and 240 are on the second floor of the southernmost four story building. Apartments 301, 302, 303, 304, 305, and 306 are on the third floor of the three story building. Apartments 307, 309, 311, 313, 315, and 333 are on the third floor of the northernmost four story building. Apartments 308, 310, 312, 314, 316, and 334 are on the third floor of the southernmost four story building. Apartments 407, 409, 411, 413, and 415 are on the fourth floor of the northernmost four story building. Apartments 408, 410, 412, 414, and 416 are on the fourth floor of the southernmost four story building. Apartments 317 to 332 inclusive and 335 to 340 inclusive are two story units on the third and fourth floors of the four story buildings. Even numbered units are in the southernmost building and odd numbered units are in the northernmost building.

A pavilion, a swimming pool and a wading pool, recreation deck and areas, and bulk storage areas are on the ground floor as shown on the Condominium Map.

Each apartment contains the number of rooms and approximate gross covered floor area according to its respective plan, as shown on said Condominium Map, each such plan being designated A, B, B<sup>1</sup>, B<sup>2</sup>, C, C<sup>1</sup>, D, D<sup>1</sup>, D<sup>2</sup>, D<sup>3</sup>, E and F as follows:

Plan A. Twenty-two (22) apartments (217 to 232 inclusive and 235 to 240 inclusive) are one story units containing 5 rooms, including two bedrooms and one bath and floor area of approximately 825 square feet. The apartments include balconies with an additional square footage of from 156 to 390 square feet as shown on said Condominium Map.

Plan B. Eighteen (18) apartments (317 to 330 inclusive and 335 to 338 inclusive) are two story units containing 7-1/2 rooms including three bedrooms and 2-1/2 baths and floor area of approximately 1,467 square feet. The apartments include balconies with an additional square footage of from 257 to 289 square feet as shown on said Condominium Map.

Plan B<sup>1</sup>. Two apartments (331 and 332) are two story units containing 7-1/2 rooms including three bedrooms and 2-1/2 baths and floor area of approximately 1,467 square feet. The apartments include balconies with an additional 257 square feet.

Plan B<sup>2</sup>. Two apartments (339 and 340) are two story units containing 7-1/2 rooms including three bedrooms and 2-1/2 baths and floor area of approximately 1,447 square feet. The apartments include balconies with an additional 289 square feet.

Plan C. Four apartments (207, 208, 307, and 308) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,255 square feet. Apartments 207 and 208 include balconies with an additional 1,022 square feet. Apartments 307 and 308 include balconies with an additional 143 square feet.

Plan C<sup>1</sup>. Two apartments (407 and 408) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,303 square feet. The apartments include balconies with an additional 149 square feet.

Plan D. Eight apartments (103, 104, 203, 204, 233, 234, 303, 304) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,124 square feet. Apartments 103 and 104 include patios with an additional 609 square feet. Apartments 203, 204, 303, and 304 include balconies with an additional 126 square feet. Apartments 233 and 234 include balconies with an additional 892 square feet.

Plan D<sup>1</sup>. Two apartments (333 and 334) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,166 square feet. The apartments include balconies with an additional 134 square feet.

Plan D<sup>2</sup>. Ten apartments (105, 106, 205, 206, 215, 216, 305, 306, 315, and 316) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,118 square feet. Apartments 105 and 106 include patios with an additional 588 square feet. Apartments 205, 206, 305, 306, 315, and 316 include balconies with an additional 125 square feet. Apartments 215 and 216 include balconies with an additional 835 square feet.

Plan D<sup>3</sup>. Two apartments (415 and 416) are one story units containing 7 rooms including three bedrooms and 2 baths and floor area of approximately 1,154 square feet. The apartments include balconies with an additional 133 square feet.

Plan E. Six apartments (101, 102, 201, 202, 301, and 302) are one story units containing 6 rooms including two bedrooms and two baths and floor area of approximately 1,030 square feet. Apartment 101 includes a patio with an additional 703 square feet. Apartment 102 includes a patio with an additional 637 square feet. Apartments 201, 202, 301, and 302 include balconies with an additional 158 square feet.

Plan F. Eighteen apartments (209 to 214 inclusive, 309 to 314 inclusive and 409 to 414 inclusive) are one story units containing 6 rooms including two bedrooms and two baths and floor area of approximately 944 square feet. The apartments include balconies with an additional square footage of from 82 to 236 square feet as shown on said Condominium Map.

Apartments 101 through 106 include the adjacent patios as is shown on said Condominium Map. All other apartments include the balconies as is shown on said Condominium Map. Each Plan A, R1, and R2 apartment has a storage area within its balcony.

Each apartment has immediate access to the corridors, elevators, stairways, walkways and driveways connecting its building to the street entrances of the project.

Electricity will be provided on an individual meter basis, and water will be provided on a common meter basis.

COMMON ELEMENTS: The Declaration identifies the common areas as including specifically, but not limited to (a) said land in fee simple (although only a leasehold is proposed to be sold); (b) all foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter walls and interior load-bearing walls and roofs of the residential buildings; (c) all yards, grounds and landscaping (exclusive of patios), the swimming pool and other recreational facilities, bulk storage areas, and all refuse facilities, if any; (d) the hallways and corridors, stairs, stairways (except such of the foregoing as may be within an apartment), driveways, parking areas, roads, loading zones, walkways (not within patios), which are rationally of common use by owners of more than one apartment; (e) the two elevators, elevator shafts and well and appurtenant installations and apparatus; (f) all ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities over, under and across the

project which serve more than one apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution; (g) any and all other 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: The Declaration identifies certain parts of the common elements as "Limited Common Elements" which are designated and set aside for the exclusive use of certain apartments and such apartments shall have appurtenant thereto easements for the use of such limited common elements which consist of two covered parking spaces designated on said Condominium Map by the same number as the apartment to which they are appurtenant.

INTEREST TO BE CONVEYED TO THE PURCHASER: The Declaration states that the undivided interest in the common elements appertaining to each apartment unit is as follows:

<u>Plan of Unit</u>	<u>Percentage of Undivided Interest in Common Elements Appurtenant</u>	<u>Number of Units</u>	<u>Total Percentage of Ownership Per Unit Plan</u>
A	.778346	22	17.123612
B	1.384041	18	24.912738
B-1	1.384041	2	2.768082
B-2	1.365172	2	2.730344
C	1.184029	4	4.736116
C-1	1.229315	2	2.458630
D	1.060437	8	8.483496
D-1	1.100062	2	2.200124
D-2	1.054777	10	10.547770
D-3	1.088741	2	2.177482
E	.971753	6	5.830518
F	.890616	18	16.031088

According to the Declaration and By-Laws the share of the common profits and expenses of each apartment unit shall be in proportion to its undivided interest in the common elements; for purposes of voting on all matters requiring action by the owners, these same percentages shall govern.

According to the Master Lease the owner of the fee and the Master Lessee will jointly issue an apartment lease to run for a term commencing upon the issuance thereof and ending December 31, 2052, or 75 years from the date of issuance of the first sublease on any portion of the premises, whichever is sooner. This lease will be valid and binding according to its provisions for the full demised term as a sublease from the Master Lessee during the continuance in effect of the Master Lease and as a lease directly from the fee owner after termination or expiration of the Master Lease.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The Declaration recites that the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests and for no other purposes. The apartments shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than 30 days, or (b) any rental which the occupants of the apartment are provided customary hotel services such as room service for food and beverage, maid service, laundry and linen or bellboy service. Except for such transient or hotel purposes the owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration and the apartment lease.

KAILUA GARDENS COMMUNITY ASSOCIATION: The prospective purchaser is advised to familiarize himself with the terms of the Declaration of Covenants, Conditions and Restrictions affecting the property dated July 6, 1973, recorded on August 6, 1973, in the Bureau of Conveyances of the State of Hawaii in Liber 9371 at Page 352. This document details the establishment of the Kailua Gardens Community Association, a non-profit corporation formed to provide maintenance of the private roadways connecting this project with public roadways. The purchaser will have non exclusive easements over these private roadways, together with all others entitled thereto. By the terms of this Declaration and the sub-lease, the purchaser is required to be a member of this Association and to pay a pro rata share of the cost of the maintenance, repair and renovation of the private roadways.

AMENDMENT TO THE DECLARATION. The Declaration provides that the Trustees and the Master Lessee reserve the right to amend the Declaration without the consent or joinder of persons then owning or leasing the apartments in two particulars; (1) by filing "as built" plans pursuant to Section 514-13 Hawaii Revised Statutes and (2) by consolidating with and adding to the property, subject to the regime any or all of the property known as Lot D-3, 16,945 square feet as shown on the map dated November 29, 1972, prepared by Park Engineering, Inc.

OWNERSHIP TO TITLE: The Preliminary Report dated August 14, 1973, furnished by Title Guaranty of Hawaii Incorporated confirms that ownership to title is vested in James C. Castle, Henry H. Wong and Hawaiian Trust Company, Limited, Executors under the Will and of the Estate of Harold K. L. Castle, Deceased, and James C. Castle, James Gordon McIntosh and Hawaiian Trust Company, Limited, Trustees of the Trust Estates established pursuant to the Last Will and Testament, including codicils first through fifth of Harold K. L. Castle, Deceased, and Tolani School, a Hawaii eleemosynary corporation.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report issued by Title Guaranty of Hawaii Incorporated certifies that title to the land is subject to the following encumbrances:

1. Master Tract Lease No. 7016 issued by the aforesaid fee owner as Lessor and Lewers & Cooke, Inc., as Lessee, dated July 6, 1973, and recorded in the Bureau of Conveyances in Liber 9372 at Page 1, demising a term from July 6, 1973, to December 31, 1994.
2. Real Property Taxes for the fiscal year July 1, 1973 to June 30, 1974, now a lien.
3. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
4. As to Lot 3
  - A. Lease dated February 14, 1958, recorded in Liber 3414 on Page 39, in favor of Hawaiian Electric Company, Inc., and Hawaiian Telephone Company; leasing and demising an easement to build, construct, rebuild, reconstruct, repair, maintain and operate a pole and wire line and/or underground power line through, over, across and under said lot.
  - B. Easement "4" for transformer vault purposes, situate within and running along portion of the northwest (front) boundary of said lot.
  - C. Easement "5" (5 feet wide) for electrical purposes, situate within and running along portion of the west (front) boundary of said lot.

- D. Covenants, conditions and restrictions and other provisions set forth in Declaration of Horizontal Property Regime, dated July 6, 1973, recorded in Liber 9372 on Page 204, and by the By-Laws attached thereto, as the same are or may hereafter be amended in accordance with law, said Declaration or By-Laws. Project covered by Condominium Map No. 296.
5. Easement "1" (15 feet wide) for drainage purposes, situate within and running along the east (rear) boundary of Lot 3.
  6. Declaration of Covenants, Conditions and Restrictions as set forth in instrument dated July 6, 1973, recorded in Liber 9371 on Page 352.
  7. Mortgage
 

Mortgagor:	Lewers & Cooke, Inc.
Mortgagee:	Bank of Hawaii
Dated:	December 12, 1972
Recorded:	Liber 8802, Page 58

Above Mortgage Amended by Instrument

Dated:	June 22, 1973
Recorded:	Liber 9372, Page 186
Consent:	Recorded in Liber 9372, Page 199

PURCHASE MONEY HANDLING: A copy of the executed Escrow Agreement dated May 7, 1973, identifies Title Guaranty Escrow Services, Inc., as the Escrow Agent. Among other provisions, the Escrow Agreement provides that Escrow shall from time to time upon written instruction from the Seller, release from Escrow and pay and disburse purchaser's funds for the purposes, in the order of and within the respective limits as follows:

1. To pay for the construction of the buildings and other improvements, furniture, appliances, and fixtures in such amounts and at such times as certified by a registered architect or licensed professional engineer in accordance with the construction contract or other contracts and bills and upon bills approved or certified for payment by the Seller's mortgagee;
2. To other persons as required for architectural, engineering, finance, advertising, printing, accounting, legal fees, and for other incidental expenses of the project to the extent approved by the Seller's mortgagee;
3. To Sellers or order after the lapse of forty-five (45) days from the filing of the Affidavit of Completion as provided for under Section 507-43, Hawaii Revised Statutes, as amended, or earlier upon receipt of a satisfactory guarantee of lien free completion provided, however, if any notice of mechanic's or materialman's lien has been filed against any of the property included within the project or suit thereon is filed, Escrow shall retain a sum equivalent to 1-1/2 times the amount of every such claim for disposition thereof to satisfy and release every such claim and upon every such release the balance shall be disposed of in accordance with Seller's instructions.

The Escrow Agreement also provides that a Purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said Purchaser, without interest and less Escrow's cancellation fee of \$15.00, if Purchaser shall have requested in writing refund of his funds and if any one of the

following shall have occurred prior to the recordation of Purchaser's apartment unit lease: (a) Seller has requested Escrow in writing to return to Purchaser the funds of such Purchaser then held hereunder by Escrow; or (b) If Purchaser's funds were obtained prior to the issuance of a Final Public Report, and if there is any change in the condominium contract, requiring the approval of a county officer having jurisdiction over the issuance of permits for construction of buildings, unless the Purchaser has given written approval or acceptance of the specific change; or (c) If the Final Public Report differs in any material respect from the Preliminary Public Report, unless the Purchaser has given written approval or acceptance of the difference; or (d) If the Final Public Report is not issued within one year from the date of the issuance of the Preliminary Public Report.

It is incumbent upon the Purchaser and prospective Purchaser that he reads with care the Sales Agreement and the executed Escrow Agreement. The later document (Escrow Agreement) establishes how the proceeds from the sale of apartment units and all sums received from any source are placed in Escrow as well as the retention and disbursement of said Escrow funds.

Paragraph 16 of the Sales Contract prohibits assignment and the Purchaser should be aware that he cannot transfer his interest in the contract prior to closing.

FINANCING OF PROJECT: Developer has obtained a commitment for the permanent financing for this project from The Equitable Life Assurance Society of the United States on September 28, 1972. A firm commitment for the interim construction financing for this project was obtained from the Bank of Hawaii on September 19, 1972.

MANAGEMENT AND OPERATION: The Declaration discloses that the administration of the project shall be vested in the Association of Apartment Owners. The proposed By-Laws of the Association places in the Board of Directors the responsibility of employing a responsible Hawaii corporation as Managing Agent to manage and control the project, subject at all times to direction by the Board. The initial Managing Agent shall be Aaron M. Chaney, Inc.

STATUS OF PROJECT: Construction of the buildings was commenced on December 8, 1972. A contract for the construction of the project was executed between the Developer and Space Investments, Inc., on November 20, 1972. A copy of the Performance Bond and Material and Labor Payment Bond has been filed with the Commission.

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The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted November 10, 1972.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is a part of REGISTRATION NO. 494, filed with the Commission November 10, 1972.

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

  
DOUGLAS R. SODEHANI, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:  
DEPARTMENT OF TAXATION  
BUREAU OF CONVEYANCES  
PLANNING COMMISSION, CITY AND COUNTY OF HONOLULU  
FEDERAL HOUSING ADMINISTRATION  
ESCROW AGENT

Registration No. 494  
September 21, 1973