

**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  
FOSTER TOWER  
2500 Kalakaua Avenue  
Honolulu, Hawaii

REGISTRATION NO. 435

**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: April 3, 1972  
Expires: May 3, 1973

SPECIAL ATTENTION

A comprehensive reading of the 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:

THE REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED FEBRUARY 22, 1972, AND ADDITIONAL INFORMATION SUBSEQUENTLY FILED AS LATE AS MARCH 30, 1972. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF HIS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT AND AMENDMENTS THERETO, CHAPTER 514, HAWAII REVISED STATUTES.

1. Foster Tower is a leasehold condominium project consisting of 141 residential units and one commercial unit. The project will consist of a 25-story building without basement and a parking building adjacent thereto. These buildings were completed in 1962 and were previously operated as an apartment-hotel under the name of Foster Tower Hotel. The buildings and the land on which the buildings are situated were submitted to the horizontal property regime as set forth in detail below. One hundred thirteen residential apartments are being offered for sale.

This Final Public Report is made a part of the registration of Foster Tower condominium project. The Developer is held responsible for placing this Final Public Report (white paper stock) in the hands of

all purchasers and prospective purchasers securing a signed copy of the Receipt for Horizontal Property Regime Final Public Report from each purchaser and prospective purchaser is also the responsibility of the Developer.

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 has fulfilled all requirements for the issuance of this Final Public Report.
3. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, and a copy of the approved Floor Plans) have been filed in the office of the recording officer.

The Declaration of Horizontal Property Regime with By-Laws of the Association of Apartment Owners attached was recorded on October 28, 1971 in the Bureau of Conveyances of the State of Hawaii in Liber 7900, at Page 235.

The Bureau of Conveyances has designated Condominium File Plan 208 to the project.

4. No advertising and promotional matter has been submitted pursuant to 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 regimes.
6. This Final Public Report automatically expires thirteen months after date of issuance April 3, 1972, unless a Supplementary Public Report issues or the Commission, upon review of the registration, issues an order extending the effective period of this report.

Note: The Commission advises that purchasers and prospective purchasers carefully study the provisions of the Declaration, inasmuch as, the Declaration contains many unique and unusual provisions which are not normally found in other condominium projects.

NAME OF PROJECT: FOSTER TOWER

LOCATION: The 39,734 square feet of land which has been submitted to the horizontal property regime is situated on the east corner of Kalakaua and Kealohilani Avenues, at 2500 Kalakaua Avenue, Honolulu, City and County of Honolulu, State of Hawaii.

TAX KEY: First Division 2-6-26-14

ZONING: B-5 for a depth of 110 feet from Kalakaua Avenue; H-2 for the remainder.

DEVELOPER: The Developer is Foster Tower Joint Venture, a Hawaii joint venture comprised by Amfac Financial Corp., a Hawaii corporation, 700 Bishop Street, Honolulu, Hawaii, and Prime Properties, Inc., a Hawaii corporation, Suite 800, 745 Fort Street, Honolulu, Hawaii. The principal place of business and post office address of the joint venture is Suite 800, 745 Fort Street, Honolulu, Hawaii (telephone 536-6611).

ATTORNEY REPRESENTING DEVELOPER: ASHFORD & WRISTON (Attention: Galen C. K. Leong) 235 Queen Street, Honolulu, Hawaii (telephone: 531-3761).

DESCRIPTION: The Declaration describes the project as follows:

1. Description of Building. The improvements consist of a 25-story building without basement and a parking building adjacent thereto, constructed principally of reinforced concrete, steel and glass containing residential and commercial apartments.

2. Residential Apartments. One hundred forty-one (141) estates have been designated as residential apartments in the spaces within the perimeter walls or boundary lines, floors and ceilings of each of the 141 apartments contained in the 24 floors above the ground level floor of the Foster Tower as shown on the Condominium File Plan. These spaces (hereinafter called the "residential apartments") are further described as follows:
- (a) On each of the first 23 floors above the ground level floor, the floors being numbered 2 through 12 and 14 through 25 in ascending order, there are 6 apartments designated by numbers 01 through 06 preceded by the number of the respective floor and on the floor above the twenty-fifth floor, there are three apartments designated as Penthouse 1, Penthouse 2 and Penthouse 3.
  - (b) Each residential apartment contains the number of rooms and approximate area as set forth in Exhibit "A" attached hereto and made a part hereof.
  - (c) Each residential apartment has immediate access to the hallways, stairways, elevators, lobby, entrances, walkways and driveways permitting ingress and egress to and from the public streets.
  - (d) Except as specifically otherwise provided, the respective residential apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls or doors separating two adjacent apartments, the unfinished surfaces of the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures and appliances installed therein. All doors (except as provided above), windows and glass walls shall be included within the apartment.
  - (e) The spaces within the perimeter walls, floors and ceilings of the closets as shown on said plan adjoining and between each of Apartments 206, 306, 406, 706, 806 and 2506 and the hallway adjoining each such apartment shall be included as a part of the respective adjoining apartment.
  - (f) The spaces within the perimeter walls, floors and ceilings of the closets which are shown on said plan and designated as Storage PH-1, Storage PH-2 and Storage PH-3 shall be included as a part of Penthouse 1, Penthouse 2 and Penthouse 3, respectively.
  - (g) Penthouse 1 and Penthouse 3 shall include the areas within the perimeters of the decks which are shown on said plan and designated as Deck PH-1 and Deck PH-3, respectively.
3. Commercial Apartment. One (1) estate has been designated as a commercial apartment in the space within that portion of the ground floor of the Foster Tower building which is shown on said plan and designated as Apartment 1, containing approximately 11,277 square feet.
- (a) Said commercial apartment contains one general room which may be partitioned into several rooms.
  - (b) Apartment 1 has immediate access to the lobby, entrances, walkways and driveways permitting ingress and egress to the adjacent public streets.
  - (c) Except as specifically or otherwise provided, said commercial apartment shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the

unfinished surfaces of the floors and ceilings surrounding such apartment, any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment or the areas designated on said plan as the lobby and entrances, the same being deemed common elements as hereinafter provided. Said apartment shall be deemed to include all walls and partitions which are not load-bearing within its perimeter walls, the interior decorated or finished surfaces of all walls, floors and ceilings and all fixtures and equipment installed therein. All doors, windows and glass walls shall be included within the apartment.

COMMON ELEMENTS: The remaining portions of the project have been designated as and are herein called the "common elements", including specifically but not limited to: (a) The land described above. (b) The foundations, columns, girders, beams, supports, load-bearing walls not exclusively serving a particular apartment, roofs, common halls, corridors, lobbies, stairs, stairways and fire escapes, and entrances and exits of the Foster Tower building and the parking building. (c) The yards and grounds and the swimming pool, deck and attendant equipment located on the roof of the parking building. (d) Central facilities and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration and incinerators. (e) The elevators, tanks, pumps, motors, fans, compressors, ducts and, in general, all other apparatus and installations existing for common use. (f) 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, herein called the "limited common elements", have been designated and set aside 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 recreational facilities, including the swimming pool, deck and attendant equipment located on the roof of the parking building, are for the exclusive use of the residential apartments. (b) The bridge connecting the parking building to the fourth floor of the Foster Tower is for the exclusive use of the residential apartments. (c) The driveways on the Diamond Head and mauka sides of the parking building are for the exclusive use of Apartment 1 for the parking of motor vehicles. (d) The parking building shall be for the exclusive use of the owners of the residential apartments, their tenants, families, domestic servants and social guests and the owners, lessees, clients and customers of the businesses located in Apartment 1 from time to time and in the apartments listed in Exhibit "B" attached hereto and made a part hereof; and, said building shall be subject to grants of exclusive easements for parking purposes as set forth in paragraph F of the Declaration and to the uses permitted in paragraph G of the Declaration. (e) Doors separating two adjacent apartments owned by the same owner or owners shall be for the exclusive use of said owner or owners and shall be subject to the provisions in paragraph O of the Declaration relating to such doors. (f) Except on the seventh and twenty-fifth floors of the Foster Tower, the storage room on each floor designated as such on said plan shall be for the exclusive use of the residential apartments on the respective floor and each apartment on such floor shall have an easement to use said storage room for storage purposes. (g) The storage room on the seventh floor of the Foster Tower shall be for the exclusive use of the residential apartments on the seventh floor, as further limited as follows:

- (i) Apartment 701 shall have an exclusive easement to use the storage locker designated as Storage Locker No. 701 in the seventh floor storage room.
- (ii) Apartments 702, 703 and 704 shall have an easement to use the remainder of the seventh floor storage room for storage purposes.

(h) The storage room on the twenty-fifth floor of the Foster Tower shall be for the exclusive use of the residential apartments on the twenty-fifth floor, as further limited as follows:

- (i) Apartment 2501 shall have an exclusive easement to use the storage locker designated as Storage Locker No. 2501 in the twenty-fifth floor storage room.

- (ii) Apartments 2502, 2503 and 2504 shall have an easement to use the remainder of the twenty-fifth floor storage room for storage purposes.

(i) The common area on the fourth floor of the Foster Tower, designated as such on said plan, shall be for the exclusive use of the residential apartments. (j) The storage rooms located in the parking building below the swimming pool and deck designated as Storage 1 and Storage 2 on said plan are for the exclusive use of the residential apartments.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project (herein called the "common interest"), and the same proportionate share in the common expenses of the project and for all other purposes including voting, as is set forth in said Exhibit "A" attached hereto and made a part hereof. In addition, each residential apartment shall have appurtenant thereto an exclusive easement to use the parking space or spaces, if any, designated as appurtenant to said apartment in the assignment of lease covering said apartment.

The right is reserved to the Association to terminate the use of the space within the perimeter walls, floors and ceilings of the ground floor of the parking building as a parking area and to convert said space to commercial uses or to a commercial apartment or apartments in accordance with plans and specifications approved by eighty-five per cent (85%) of the apartment owners, pursuant to an amendment to the Declaration, duly executed by or pursuant to the affirmative vote of eighty-five per cent (85%) of the apartment owners and accompanied by the written consent of the holders of all liens affecting any apartment and the written consent of all of the apartment owners of apartments having appurtenant thereto an easement to use a parking space or spaces in said ground floor of the parking building; subject to the consent of the Trustees as to the plans and specifications therefor and the uses of such commercial space, and to the right of the Trustees to the rentals as set forth in the Declaration.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE:

1. The residential apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests; provided, however, that the apartments listed in Exhibit "B" attached hereto, being presently used by the owners or lessees thereof for various commercial uses, may continue to be so occupied and used only by said owners or lessees until the termination of said leases or uses or ownership by the present owners thereof and thereafter the existing uses shall not be enlarged, increased or extended as to area, time or persons nor shall said uses be changed except to use of said apartments as private dwellings in accordance with the Declaration.
2. As to Apartment 204, the right is reserved to the Developer to allow said apartment to be occupied and used as a private dwelling or to be used as a facility for recreational or other purposes by the residential apartment owners.
3. The commercial apartment shall be occupied and used only for general commercial purposes and may include any lawful commercial enterprise therein.
4. The right is reserved to the Developer to use any of the apartments in the first three floors above the ground floor level of the Foster Tower building for offices or other business purposes until such time as any of said apartments are sold.
5. Purchasers of residential apartments shall have the absolute right to lease such apartments subject to all provisions of the Declaration.
6. The various areas of the parking building shall be used and occupied for the purposes for which such areas are designed and intended, being for parking, recreation and storage, subject, however, to the reservation contained in paragraph 0 of the Declaration relating to

the possible conversion of the ground floor of the parking building to commercial use.

OWNERSHIP TO TITLE: The Developer in his Notice of Intention to Sell represents that the owners of the fee are Clorinda Low Lucas, Gordon S. May and First Hawaiian Bank, a Hawaii corporation, as Trustees of the Liliuokalani Trust. The Certificate of Title updated to March 6, 1972 furnished by Long & Melone Title Insurance, Ltd. confirms the ownership to title and encumbrances against title as set forth in the Notice of Intention.

The property was formerly subject to a master lease. This master lease was cancelled prior to the submission of the property to the horizontal property regime and simultaneously with the recordation of the Declaration of Horizontal Property Regime, 141 residential apartment leases and 1 commercial apartment lease were issued by the Trustees in place of said master lease. Twenty-eight residential apartment leases and the commercial apartment lease were issued to the persons who owned said apartments in the Foster Tower Hotel under the previous apartment-hotel arrangement.

These leases covered the following apartments: 202, 302, 303, 401, 402, 406, 505, 601, 604, 605, 606, 701, 705, 706, 801, 802, 804, 805, 806, 901, 904, 905, 1001, 1204, 1205, 2501, 2505, 2506 and Apartment 1, the commercial apartment. These apartments are made a part of this registration but will not be sold by the Developer.

One hundred thirteen residential apartment leases covering the remaining residential apartments were issued to the Developer. These apartments will be sold by the Developer.

ENCUMBRANCES AGAINST TITLE: The Certificate of Title updated to March 6, 1972 certifies that the land is subject to the following encumbrances: Reservation of title to all mineral and metallic mines to the State of Hawaii. A 10-foot street setback line along Kalakaua Avenue and approximately 30 feet from the westerly corner of Kalakaua Avenue along Kealohilani Avenue, as shown on map attached to Boundary Agreement dated December 4, 1962, recorded in said Bureau in Liber 4433, at Page 346. Mortgage dated October 28, 1971, in favor of Amfac Financial Corp., recorded in the Bureau of Conveyances in Book 8037, Page 138, affecting 113 apartment leases. In addition, each apartment shall have appurtenant thereto and shall be subject to such easements pertaining to or affecting the respective apartment as are established by and described in the Declaration, including as follows:

1. Non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for and support of the apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as provided in the Declaration; and in all other apartments of the building for support.
2. An easement for encroachment upon any part of the common elements or any apartment or limited common element and the maintenance thereof, so long as it continues.
3. The Association of Apartment Owners of the project shall have the right, to be exercised by its Board of Directors or Managing Agent, to enter any apartment and limited common element from time to time during reasonable hours as may be necessary for the operation of the project or for making emergency repairs therein required to prevent damage to any apartments or common element or for the installation, repair or replacement of any common element.
4. Each residential apartment in the project shall have a non-exclusive easement for pedestrian ingress and egress through the Foster Tower and the parking building by the most direct path to reach the swimming pool on the roof of the parking building.

5. Each residential apartment having a parking space appurtenant thereto shall have a non-exclusive easement for vehicular and pedestrian ingress and egress through the Foster Tower and the parking building by the most direct means necessary to reach said parking space.

PURCHASE MONEY HANDLING: A copy of the Escrow Agreement dated February 16, 1972 by and between Long & Melone Escrow, Ltd., a Hawaii corporation, as Escrow, and Foster Tower Joint Venture, as Seller, has been submitted to the Commission as part of this registration. On examination the Escrow Agreement and Sales Contract, also submitted to the Commission as a part of this registration, are found to be in compliance with Chapter 514, Hawaii Revised Statutes. The Provisions of the Sales Contract should be carefully read by the Purchaser. The specimen Sales Contract filed as a part of the registration recites the conditions under which the Purchaser acknowledges receipt of this Final Public Report.

It is incumbent upon the purchaser that he reads with care the Sales Contract and Escrow Agreement. The Escrow Agreement establishes how the proceeds and the sale of the apartments and all sums from any source are placed in trust as well as the retention, disbursement and refund of said trust fund.

MANAGEMENT AND OPERATION: The Declaration of Horizontal Property Regime provides that the operation of the project shall be conducted for the Association of Apartment Owners by a managing agent which shall be a responsible Hawaii corporation appointed by the Association in accordance with the By-Laws, subject to written approval by the Trustees, which approval shall not be unreasonably withheld. The initial managing agent has not yet been appointed.

-----  
The purchaser or prospective purchaser should be cognizant of the fact that this Final Public Report represents information disclosed by the Developer in the required Notice of Intention submitted February 22, 1972 and additional information subsequently filed as late as March 30, 1972.

This FINAL HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 435 filed with the Commission on February 22, 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.

  
(for) DOUGLAS R. SODEVANI, Chairman  
REAL ESTATE COMMISSION  
State of Hawaii

YH:pg

Distribution:

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

Registration No. 435  
April 3, 1972

EXHIBIT "A"

<u>Apartment Number</u>	<u>Approximate Area (including Lanai if any)</u>	<u>Number of Rooms</u>	<u>Common Interest</u>
201	2,250	6	1.559
301, 401, 601, 801	1,250	4	.866
501	1,331	6	.922
701	1,331	4	.922
901, 1001, 1101, 1201, 1401, 1501, 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401	1,329	6	.921
2501	1,246	5	.863
202	1,185	4	.821
302	1,062	5	.736
402, 602, 702, 802	1,062	4	.736
502	981	4	.680
902, 1002, 1102, 1202, 1402	992	4	.687
1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402	998	4	.691
2502	1,081	4	.749
203	1,021	4	.707
303	915	7	.634
403, 503, 603, 703, 803	915	4	.634
903, 1003, 1103, 1203, 1403	918	4	.636
1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503	927	4	.642
204	1,768	1	1.225
304, 504, 704, 804	1,233	6	.854

<u>Apartment Number</u>	<u>Approximate Area (including Lanai if any)</u>	<u>Number of Rooms</u>	<u>Common Interest</u>
404	920	4	.637
604	1,233	5	.854
904, 1004, 1104, 1204, 1404	1,245	6	.862
1504, 1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504	1,260	6	.873
205, 305, 405, 505, 605, 705, 805	520	3	.360
905, 1005, 1105, 1205, 1405	525	3	.364
1505, 1605, 1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505	529	3	.366
206, 306, 406, 506, 606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506	441	3	.306
PH-1	2,560	7	1.628
PH-2	789	3	.523
PH-3	2,674	6	1.675
Apartment 1	11,277		8.152

EXHIBIT "B"

<u>Apartment Number</u>	<u>Use</u>	<u>Owner or Lessee Using Premises</u>
201	General Offices	Foster Enterprises, Ltd.
202	General Offices	First Hawaiian Bank, Trustee.
203	General Offices	Foster Enterprises, Ltd.
204	General Offices & Maintenance Room	Foster Enterprises, Ltd.
205	General Offices	Foster Enterprises, Ltd.
206	General Offices	Foster Enterprises, Ltd.
301	General Offices	Foster Enterprises, Ltd.
302	Doctor's Offices	Kenneth E. & Mildred M. Little
303	Doctor's Offices	Kenneth E. & Mildred M. Little
304	General Offices	Foster Enterprises, Ltd.
305	General Offices	Foster Enterprises, Ltd.
306	General Offices	Foster Enterprises, Ltd.
403	General Offices	Foster Enterprises, Ltd.
404	General Offices	Foster Enterprises, Ltd.
405	General Offices	Foster Enterprises, Ltd.

Exhibit "B"