



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to address concerns regarding the dedication of property for residential use.

SECTION 2. Section 8-7.5, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 8-7.5 Certain property dedicated for residential use.

(a) As used in this section:

"Apartment building" means a multi-family dwelling that is situated on a single parcel, which parcel is not subdivided into condominium units.

"Detached dwelling" [means a building containing one or two dwelling units, entirely surrounded by yards or other separation from buildings on adjacent lots. Dwelling units in a two-family detached dwelling may be either on separate floors or attached by a carport, garage or a solid wall without openings which shall not be less than 15 feet or 50 percent of the longer dwelling, as defined in Section 21-10.1.] is as defined in Section 21-10.1.

"Dwelling unit" is as defined in Section 21-10.1.

"Lodging unit" is as defined in Section 21-10.1.

"Multi-family dwelling" means a building containing three or more dwelling or lodging units, as defined in Section 21-10.1, which is not a hotel.

"Owner" means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least five years from the date of the petition.

"Residential use" means the actual use of a dwelling unit or lodging unit as a residence: (1) by occupants for compensation for periods of 30 or more consecutive days; (2) by the unit owner personally or (3) by the unit owner's guest(s) without compensation. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of employees. Residential use specifically excludes the use of the unit as a transient vacation



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unit or for time sharing. For purposes of this dedication, residential use shall include the use of the unit as a group living facility, a [board] boarding facility, or as special needs housing for the elderly.

- (b) The owner of a parcel may dedicate the parcel for residential use and have the property classified as residential and assessed at its value in residential use, provided that the property:
 - (1) Is within an apartment, apartment mixed use, resort, business, business mixed use, industrial or industrial mixed use district; or if it is in the Waikiki special district, is zoned apartment mixed use subprecinct, resort mixed use precinct, or resort-commercial precinct; or is in a transit-oriented development zone pursuant to Section 21-9.100;
 - (2) Is used exclusively for residential use, except that a portion of the property may be used for nonprofit purposes pursuant to Section 8-10.10; and
 - (3) The parcel is improved with one or more detached dwellings, as defined in Section 21-10.1 or with one or more apartment buildings or with both dwellings and apartment buildings.
- (c) The owner of real property who wishes to dedicate such property for residential use and have the property assessed at its value in residential use according to subsection (b) shall petition the director and declare in such petition that if the petition is approved, the owner shall meet the applicable requirements of subsection (b) pertaining to the property.
- (d) The approval of the petition by the director to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of such person's land for a minimum period of five years, automatically renewable thereafter for additional periods of five years subject to cancellation by either the owner or the director. Cancellation of the dedication by the owner must be in writing and submitted to the director by September 1st only within the 5th year of the date of the dedication, or the latest five-year renewal period.

For the purpose of this dedication, there is no change in use if the owner demolishes and constructs or reconstructs one or more detached dwellings or multi-family dwellings, provided that such construction or reconstruction is permitted pursuant to Chapter 21, Revised Ordinances of Honolulu 1990, as amended, the replacement structure or structures are completed no less than 24 months after the building permit is issued, and at least the same number of dwelling or lodging units as those demolished are developed. The five-year



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dedication will be suspended during this period of demolition and construction or reconstruction, and the parcel and any improvements thereon will continue to be classified and assessed at their value in residential use during the suspension.

- (e) (1) Failure of the owner to observe the restrictions on the use of such person's property or the sale of the property shall cancel the special tax assessment privilege retroactive to the tax year preceding the tax year in which the breach of the dedication occurs, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a 10 percent per year penalty retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the property in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the property.
- (2) The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter.
- (f) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year. The notice of assessment shall serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication shall be effective as of October 1st of the same calendar year.
- (g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment."

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 4. This ordinance shall take effect upon its approval and shall apply to the tax years beginning July 1, 2013 and thereafter.

INTRODUCED BY:

Ernest Martin

DATE OF INTRODUCTION:

March 13, 2012
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Amey P. K...
Deputy Corporation Counsel

APPROVED this 25th day of May, 2012.

Peter B. Carlisle
Peter B. Carlisle, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE **12-14**

BILL 25 (2012), CD2

Introduced: 03/13/12 By: ERNEST MARTIN

Committee: BUDGET

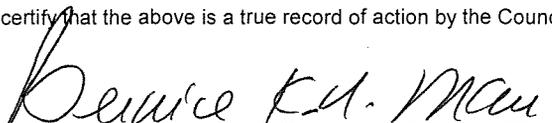
Title: A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAXATION.

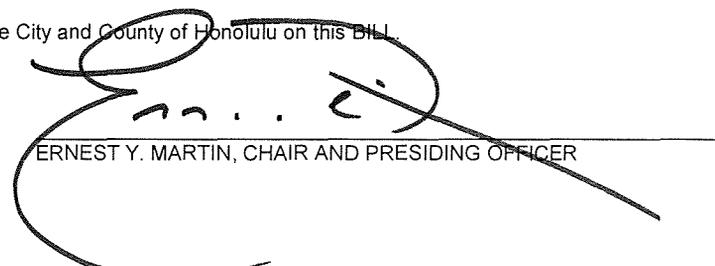
Links: [BILL 25 \(2012\)](#)
[BILL 25 \(2012\), CD1](#)
[BILL 25 \(2012\), CD2](#)
[CR-119](#)
[CR-164](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

COUNCIL	03/21/12	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET.							
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	A	KOBAYASHI	Y	MARTIN	Y		
BUDGET	04/04/12	CR-119 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN <u>CD1</u> FORM AND SCHEDULING OF A PUBLIC HEARING.							
PUBLISH	04/14/12	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.							
COUNCIL/PUBLIC HEARING	04/25/12	CR-119 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET.							
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	A	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		
BUDGET	05/02/12	CR-164 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN <u>CD2</u> FORM.							
PUBLISH	05/03/12	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.							
COUNCIL	05/09/12	CR-164 ADOPTED AND BILL 25 (2012), CD2 PASSED THIRD READING AS AMENDED.							
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER