



OAHU REAL PROPERTY TAX ADVISORY COMMISSION
CITY AND COUNTY OF HONOLULU
530 South King Street, Room 202
Honolulu, Hawaii 96813

**MINUTES OF THE COMMISSION'S FIRST MEETING:
August 17, 2017**

Members Present: Dennis Oshiro, Chair
Nathan Okubo, Vice-chair
Shannon Alivado
Clayton Chun
Scott Higashi
Mark K. Murakami

Members Absent: Leonard K.P. Leong

Others Present: Todd Swisher, Commission Aide, Office of Council Services
Randall Young, Office of Council Services
Mark Segami, Council Media and Communications
Steven Takara, Real Property Assessment Division Administrator
Robert Magota, Assistant Real Property Assessment Division Administrator
Sherri Donlin, Revenue Collections Administrator, Treasury Division (BFS)
Fusao Nishibun, Tax Relief Section Supervisor, Treasury Division (BFS)

1. CALL TO ORDER

The meeting was called to order at 9:32 a.m. by Chair Oshiro. Commissioner Higashi, who was excused from the Commission's previous meeting, introduced himself and stated that he was pleased to be of service.

2. APPROVAL OF MINUTES: JULY 20, 2017

Chair Oshiro asked if there were any corrections to the draft minutes as circulated. Hearing none, and with no objections, the minutes of the July 20, 2017 meeting were approved.

3. ORAL TESTIMONY ON AGENDA ITEMS

Chair Oshiro called for oral testimony on all agenda items. No individuals signed up to speak and no testimony was offered.

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4. REVIEW OF REPORT OF THE REAL PROPERTY TAX COMMISSION 2014 AND SUBSEQUENT COUNCIL ACTION

Commissioners were invited to discuss the previous Commission's report, as well as a chart summarizing subsequent City Council action on the report's recommendations. Commissioner Murakami asked about the context of the previous Commission's report. Commission Aide Todd Swisher offered that the ideas the previous Commission considered came from a range of sources, including the public, the City Administration, and Councilmembers. He added that Commissioners can bring in their own observations and professional expertise. Real Property Assessment Division ("Division") Administrator Steven Takara approached and noted that the 2014 Commission seemed to focus on exemptions.

Commissioner Chun noted the wide range of topics and items covered in the report. Chair Oshiro referred to the Commission's mandate under Resolution 17-122, which includes the real property tax system's classes, exemptions, credits, and minimum tax. Commission Aide Todd Swisher indicated that there would be a point later in the meeting's agenda (item 7) during which the Commission would start to identify priorities. Commissioner Higashi asked if it would be fair to say that many of the 2014 Commission's recommendations were not adopted. Administrator Takara agreed with that analysis and characterized his Division's current recommendations as a potential starting point for the Commission.

5. REVIEW OF BUDGET AND FISCAL SERVICES "WISH LIST"

Administrator Takara went over each of the Real Property Assessment Division's eight recommendations as incorporated in Departmental Communication No. 551. He noted that at a Budget Committee Meeting on July 26, 2017 Councilmember Elefante asked for the fiscal impact of each recommendation. Consequently, the Administrator indicated he would supply fiscal impact information for each recommendation whenever possible.

The bullet points on the "wish list" are not numbered because there is no rank order of importance. As referenced in the first bullet point, the reclassification of timeshares in Waikiki from Residential to Hotel would affect approximately 700 properties and would yield \$2-3 million in revenue.

Meanwhile, classifying certain residential properties in the Preservation or Country zones as Residential A, as referenced in the second bullet point, would affect 300 or so properties and would add another \$1 million in revenue. In answer to a question from Commissioner Alivado, Administrator Takara clarified that in general only P-1, P-2, or Country-zoned properties that contain a dwelling and would otherwise qualify for the Residential A class but for their zoning status would be affected. The Real Property Assessment Division would likely favor excluding vacant P-1 and P-2 parcels from Residential A, although Country-zoned parcels might qualify. Vice-chair Okubo asked about the litigation regarding Residential A. Administrator Takara reported that Judge Gary Chang provided a verbal decision in the City's favor but a written decision has not been issued. The City is proceeding as if it is prima facie correct. Commissioner Murakami asked about the rate at which dwellings on Country-zoned land are taxed. Assistant Administrator Robert Magota gave background on Country zoning and noted that Country-zoned dwellings are taxed at the Residential rate. However, Residential A has not been applied to Country. In reply to a question from Commissioner Alivado, the Assistant Administrator stated that any property can qualify for special agricultural dedication as long as the farming operation is legitimate.

Administrator Takara continued on to the third bullet point, which calls for greater clarity regarding the classification of properties. Ambiguity was introduced by the City moving away from a

scheme based exclusively on highest and best use and towards more descriptive classifications. This issue has been raised by Judge Chang and by Corporation Counsel Donna Leong. Administrator Takara suggested that no fiscal impact would be associated with this change.

The fourth bullet point reflects concerns over the agricultural production rate used to determine values for the agricultural dedication. Administrator Takara suggested involving the Agricultural Development Task Force. The fact that the calculation of the rate is now done statewide introduces inequities between the counties, potentially skewing the rate lower than it otherwise would be for Oahu. Administrator Takara stated that implementing the recommendation may impact large farmers but would be fairly nominal for most.

The Real Property Assessment Division would like to see a uniform \$50 deposit for the filing of real property tax appeals, as in the fifth bullet point. Currently the deposit amount for appeals regarding tax years prior to 2017 is \$25, versus \$50 for 2017 onward, despite the administrative workload for the Division being the same. Administrator Takara testified that the number of properties this change would impact each year would be nominal but that the change would improve fairness and promote consistency. In reply to a question from Chair Oshiro, Administrator Takara noted that the appellant gets the deposit back in the event they win their appeal before the Real Property Tax Board of Review. Vice-chair Okubo asked if there was a cutoff for how many years in the past a tax bill could be assessed. Administrator Takara replied that there is no limit if the property owner made an error, but if the error was the Division's, they can only go back five years. The Administrator agreed with Commissioner Alivado's characterization of this issue as "housekeeping" and reiterated that the Division requests the adjustment be made.

Regarding the sixth bullet point, Administrator Takara stated that due to medical advancement it is unlikely that anyone nowadays would qualify for the exemption for leprosy found in ROH Section 8-10.7. The Division feels it would be more appropriate to cover individuals with leprosy under the disability exemption in ROH Section 8-10.8. In response to a question from Commissioner Chun, Administrator Takara affirmed that there may need to be modifications made to the disability language to incorporate the condition of leprosy.

The Division would like the Commission to look at issues of fairness and constitutionality associated with the seventh bullet point. Properties with the same use, same zoning, etc. but across the street from another may be treated differently due to the boundary delineation of the Central Kakaako Industrial Zone. The Division approved 80/110 properties that have applied for the exemption. Administrator Takara reported that the City had won all nine appeals made to the Real Property Tax Board of Review on the issue. As far as fiscal impact, the tax relief provided to the 80 qualified properties amounts to \$850,000. Commissioner Murakami asked if the request was to get rid of the exemption altogether, rather than just the map. Administrator Takara would leave that decision to the Commission. He noted that the reason for the exemption was to retain small industrial operations in Kakaako in the context of infrastructure limitations (i.e. water, sewer). According to Hawaii Community Development Authority, property owners are not interested in pursuing a special improvement district.

The last bullet point refers to a housekeeping issue regarding dedication for residential use of certain properties in mixed use districts. Administrator Takara addressed multiple issues relating to this dedication (e.g. outreach, classification as Residential A) before, prompted by Chair Oshiro, expanding on the Division's reasoning for requesting that sale or transfer of a property remove the residential dedication. A new buyer may wish to use the property for a different purpose and would otherwise be expected to uphold the conditions of a dedication for which they did not apply. Commissioner Higashi noted that under these circumstances new buyers of

condos are not asked to do anything different than residents of any other unit. The Administrator agreed and further noted that verbiage would have to be corrected to prevent unclear or "clouded" title issues. The new buyer should be able to start anew and not get tied into penalties attached to the property that were not disclosed.

6. REVIEW OF PENDING REAL PROPERTY TAX LEGISLATION

Administrator Takara summarized and provided context for ten real property tax-related bills currently before the Council. These bills are listed on slide 26 of the Division's 2017 Real Property Tax Advisory Commission presentation given at the Commission's July 20, 2017 meeting and incorporated in Departmental Communication No. 551.

Bill 19 (2017): Creates a Transit Oriented Development (TOD) class. BFS has testified in support of the measure, which passed second reading in March. Fiscal impact is unknown because the tax rate would need to be fixed.

Bill 37 (2017): Fusao Nishibun and Sherri Donlin of BFS's Treasury Division came forward to address the measure. The measure proposes a change in the method used to determine the tax credit amount for applicants. The amount of the credit is the difference between 3% of an applicant's gross income and next year's taxes. The bill would change the year used to determine the credit amount, from the current year to the following year. BFS has requested the effective date be pushed to 2018. Bill 37 (2017) passed first reading but to date had not been heard in committee.

Bill 39 (2017): Modifies Residential A by excluding inherited and certain rented properties. The fiscal impact is unknown because Real Property Assessment Division does not know how many properties would fall under the amendment. Bill 39 (2017) passed first reading but to date had not been heard in committee.

Bill 41 (2017): Removes Residential A class and the related low-income rental exemption. Repealing Residential A would lead to a loss of \$49 million in City revenue based on the current tax year. Bill 41 (2017) passed first reading but to date had not been heard in committee.

Bill 48 (2017): Replaces Residential A with a "Luxury apartment unit" class. The new class would apply to condo units built after December 31, 2009 with an assessed value greater than or equal to an unspecified dollar amount. The fiscal impact is unknown because the threshold value has been left off. In response to a question from Commissioner Alivado, Administrator Takara noted that raising the threshold above the \$1 million set for Residential A, as suggested by one testifier on the bill, would lead to lost City revenue. The Administrator also drew the Commission's attention to the newly established two-tier tax rate for Residential A. Bill 48 (2017) passed first reading but to date had not been heard in committee.

Bill 52 (2017), CD1: Increases the minimum tax for historic residential properties from \$300 to \$1,000. BFS does not oppose the measure. The bill would affect around 300 parcels and would raise revenue by \$200,000. Bill 52 (2017) passed second reading in July. Administrator Takara noted that the measure bears some relationship to adjustments previously made to the minimum tax for credit unions.

Bill 59 (2017), CD1: A comprehensive affordable housing bill referred to the Committee on Zoning and Housing and which has passed second reading. The real property tax implications concern an exemption for affordable rental units and tax relief during construction. BFS has not provided testimony on the bill and the fiscal impact has not been calculated.

Bill 60 (2017): Reestablishes the in-lieu exemption. Individuals age 75 or older and with an income 80% of Area Median Income or below get a larger exemption in lieu of the \$120,000 home exemption. There are incremental increases for thresholds at 80, 85, and 90 or over. The program is being phased out, with an eventual complete repeal on June 30, 2039. The bill restores the program by eliminating all phaseout and repeal language. Administrator Takara noted that the reason for repeal was that the in-lieu exemption considers age but not ability to pay. A tax credit already exists for low-income seniors. Bill 60 (2017) passed first reading but to date had not been heard in committee.

Bill 61 (2017): Creates "Transient vacation" and "Bed and breakfast" classifications. BFS does not class and tax people on illegal uses, so any rate increase associated with these classes would likely be borne by legal certificate holders, who currently pay the Residential rate. Administrator Takara noted that there are currently 775 nonconforming use certificates for transient vacation units (TVUs) and 41 for bed and breakfasts. Bill 61 (2017) passed first reading but to date had not been heard in committee. Commissioner Alivado inquired about City and State cooperation on the transient vacation rental issue and asked whether there are studies on what other communities have done nationwide. Assistant Administrator Magota noted that the State seems more concerned about owners/operators of these units paying the Transient Accommodations Tax (TAT), whereas the City is concerned with enforcement of illegal rentals. The Assistant Administrator suggested consulting with DPP to see if there are studies on mainland jurisdictions.

Bill 65 (2017): Amends the disability exemption to limit it to residents of owner-occupied homes (with home exemptions) who are blind or deaf and who meet low-income requirements. Currently, blind or deaf individuals may claim a \$25,000 exemption regardless of whether or not they live in the home in question and regardless of their income. The fiscal impact is unknown because the Division does not know the income of current claimants or how many are taking home exemptions. Bill 65 (2017) passed first reading but to date had not been heard in committee.

Commissioner Oshiro thanked the representatives of the Real Property Assessment Division for their time and for the wealth of information they provided.

7. COMMISSION GOALS, OBJECTIVES, AND TIMETABLE

Chair Oshiro opened up general discussion about the Commission's goals, objectives, and the timetable for its work. Vice-chair Okubo urged the Commission to think about the scope of public participation that the Commission would like to have. He also observed that the Commission will need to decide how it wants to approach and break up its work. He further raised the question of whether the Commission might require legal support, possibly from COR, when dealing with some of the subject matter. Chair Oshiro echoed the concern about public awareness, stating that without public input the Commission would be operating in a vacuum. In response to a question from Vice-chair Okubo, Commission Aide Todd Swisher explained that the Commission itself has no budget but that the Council has media and communications capacity and that press releases and other publicity may be possible.

Chair Oshiro asked if there were proposals for how to break up the work. Commissioner Chun noted that the way the Commission chooses to organize itself may depend on the subject matter. Commissioner Murakami referred to the Commission's mandate to look at classes, exemptions, credits, and the minimum tax. He suggested that one way to form subcommittees would be to divide the Real Property Assessment Division's recommendations into those categories. Chair Oshiro pointed out that the 2014 Commission divided itself into two subcommittees, one devoted to Classifications and the other to Exemptions and the Minimum Tax. Commissioner Higashi

questioned whether there was yet enough business or content before the Commission to break up into subcommittees. Commissioner Alivado referred back to Commissioner Murakami's suggestion and noted that the public would be more likely to react to specific topics (e.g. Residential A, TVUs) than it would be to heed a general call for participation. Vice-chair Okubo added that the 2015-2016 Charter Commission attracted more participation at the point at which it put out substantive proposals. He noted that the Commission will need to determine how specific to be in its recommendations.

Chair Oshiro asked for a motion to create subcommittees. Commission Murakami moved to create two subcommittees, one having to do with Classifications and the other having to do with Exemptions and Minimum Tax. Commissioner Alivado seconded the motion. The motion passed unanimously. Commissioner Oshiro then asked for volunteers for the two subcommittees. After commissioners volunteered themselves, Chair Oshiro named the following individuals to the two committees: For the Classifications subcommittee, Commissioners Leong, Murakami, and Okubo; for the Exemptions and Minimum Tax subcommittee, Commissioners Alivado, Chun, and Higashi. Commission Aide Todd Swisher offered to help coordinate meeting times and informed Commissioners that, as non-Sunshine board bodies, the subcommittees would be able to meet informally and then give reports of their work at each full Commission meeting. Chair Oshiro offered to arrange conference calls if doing so would be in order.

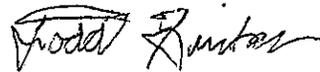
8. **ANNOUNCEMENTS**

The next meeting will be held on Thursday, September 14, 2017 at 10:30 a.m.

9. **ADJOURNMENT**

Hearing no objections from the six Commissioners present, Chair Oshiro adjourned the meeting at 11:04 a.m.

Respectfully submitted,



Todd Swisher
Commission Aide