



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 South King Street, Room 202M
Honolulu, Hawaii 96813

Dennis Oshiro, **Chair**
Nathan T. Okubo, **Vice-chair**
Shannon L. Alivado, **Commissioner**
Clayton Chun, **Commissioner**
Scott H. Higashi, **Commissioner**
Leonard K.P. Leong, **Commissioner**
Mark K. Murakami, **Commissioner**

MEETING NOTICE AND AGENDA

OAHU REAL PROPERTY TAX ADVISORY COMMISSION

THURSDAY, NOVEMBER 9, 2017
COUNCIL COMMITTEE MEETING ROOM
10:30 A.M.

SPEAKER REGISTRATION:

Persons wishing to testify are requested to register by 10:30 a.m. as follows:

- a. By emailing Todd Swisher, Commission Aide, at todd.swisher@honolulu.gov, specifying your name and the agenda item;
- b. By filling out the registration form in person; or
- c. By calling Todd Swisher, Commission Aide, at 768-3871.

Persons who have not registered to testify will be given an opportunity to speak on an item following oral testimonies of the registered speakers.

Each speaker is limited to a **one- to three-minute** presentation.

WRITTEN TESTIMONY:

Written testimony may be emailed to Todd Swisher, Commission Aide, at todd.swisher@honolulu.gov.

If submitted, written testimonies, including the testifier's address, e-mail address, and phone number, may be posted by the City Clerk and available to the public on the City's DocuShare website.

ACCOMMODATIONS:

Accommodations are available upon request to persons with disabilities, please call 768-3871 or send an email to todd.swisher@honolulu.gov at least three working days prior to the meeting.

Oahu Real Property Tax Advisory Commission
November 9, 2017

1. Call to Order
2. Approval of Minutes: October 12, 2017
3. Oral Testimony on Agenda Items
4. New Business
 - a. Subcommittee Meeting Reports
 1. Exemptions Subcommittee – October 19th
 2. Classifications Subcommittee – November 2nd
 3. Exemptions Subcommittee – November 2nd
 - b. Draft Subcommittee Recommendations
 1. Classifications Subcommittee (Commissioners Leong, Murakami, and Okubo)
***See attached draft recommendations*
 2. Exemptions and Minimum Tax (Commissioners Alivado, Chun, and Higashi)
***See attached draft recommendations*
 - c. Review of Pending Real Property Tax Legislation
 1. [Bill 79 \(2017\)](#)
 2. [Bill 80 \(2017\)](#)
 3. [Bill 91 \(2017\)](#)
 4. [Bill 95 \(2017\)](#)
 5. [Bill 97 \(2017\)](#)
 6. [Bill 98 \(2017\)](#)
 7. [Bill 100 \(2017\)](#)
5. Announcements
 - a. Next meeting: November 30, 2017, 10:30 a.m.
6. Adjournment

OAHU REAL PROPERTY TAX ADVISORY COMMISSION
CLASSIFICATION SUBCOMMITTEE RECOMMENDATIONS

- Consider treating all condominium units used for time share use the same by repealing ROH §8-7.1(c)(4)
- Recommend redefining “Residential A” in ROH §8-7.1((i) to include parcels in the P-1, P-2, and Country zoning districts.
- Consider amending ROH §8-7.6 to broaden the definition of “low-income rental housing”, or otherwise using the real property tax rates, assessments, exemptions, or credits, as tools to incentivize owners of residential units to increase the pool of residential units being rented at affordable rental rates.
- Consider repealing ROH §§8.10-34, -35, or alternatively setting a sunset provision to allow the City to determine whether the demonstration had its intended effect.
- Recommend amending ROH §8-7.5(d) to have a residential dedication terminate upon the sale of the dedicated residential parcel or unit, and provide for equitable transition for the buyer of the residential parcel or unit to elect to dedicate the residential parcel or unit for residential purposes.
- Recommend housekeeping amendments to ROH §8-7.1 to address issue of ambiguity raised by Judge Gary Chang (Tax Appeal Court) when interpreting this provision of the ROH.

2017 REAL PROPERTY TAX ADVISORY COMMISSION
Report by the Subcommittee on Exemptions and Minimum Tax
Action Items for consideration

Includes a brief summary with intended benefit and any revenue gain or loss

The Subcommittee on Exemptions and Minimum Tax (EMT) proposes adopting a criteria and policy set forth by the 2014 RPT Commission to determine whether a RPT exemption is proper and worthy; it proposes to do so by asking the following questions:

- Does the proposed RPT exemption allow another party to perform essential work or services that the government would have to perform itself if the organization were not present? This is considered one of the primary justifications for granting a tax exemption to an organization, and if the answer is no, the proposed RPT exemption should be studied further.
- Does the proposal provide an unfair advantage? For example, if a for-profit organization is allowed an exemption, the subsidy provided by the exemption can increase the profits that accrue to the owners of the organization. Does the RPT exemption unbalance the playing field of competition and forces the rest of us who are not favored with such an exemption to pay for the county services consumed by the party receiving the exemption? Does the proposal unbalance the playing field? If yes, RPT exemption should be studied further.
- Does the granted real property tax exemption affect a property with a fixed tax amount, (e.g. currently \$300 for DHHL homes, historic homes, etc.) regardless of property size or value? Does the exemption give more benefit to bigger, more valuable properties? Is that the result we want in terms of advancing the social policy behind the exemption?

Based on the policy above – the EMT Subcommittee is requesting that the Commission ask themselves these questions when considering the following proposals.

New Proposals Submitted by the Subcommittee for Commission Consideration

1. **Repeal ROH Sec. 8-7.3(c). Dedication of land for agricultural use.** Source and calculation of agricultural production rates may be unreliable, but forces dedicated values below 1% (10-yr dedication) and 3% (5-yr dedication) of their market value.

This proposal maintains the agricultural dedication program but proposes a negligible fiscal impact to allow for elimination of mischaracterized valuation of crop production. This proposal relates to the repeal of a mechanism that may be antiquated and no longer a valid tool to determine the value of agricultural lands. Since government resources may be deficient and/or specified crops which contribute to the production rate factor are scarcely produced, this factor could be considered inaccurate or a poor indicator for determining value. The benefit of repealing the production rate factor is that it will eliminate false values. The fiscal impact is negligible, because most agriculturally lands are being assessed at the minimum tax rate, as dedicated agricultural lands already receive up to 99% discount off its market land value. In the spirit of unity and cooperation, the Commission recommends awaiting a recommendation from the Agricultural Task Force before any related legislation is formulated.

2. **Amend ROH Sec. 8-12.10. (Bill 70(2016); Ord 17-006) Costs – Deposit for an appeal. (Housekeeping)** This proposal would re-word Section 8-12.10 to include a \$50.00 deposit for appeals filed to the board of review, including years prior to 2017. COR's interpretation of current ordinance has interpreted the deposit amount at \$25 for appeals filed prior to 2017. This proposal will uniformly allow inclusion of all appeals and will blanket all appeals to assist in the resource consideration of processing an appeal, whether or not an appeal relates to a notice prior to 2017. On occasion, the Real Property Assessment Division issues assessment notices of omitted properties for prior years, which are subject to an appeal.

This proposal suggests technical clarification which simplifies the way appeals are submitted, processed, and presented to appellants. Currently, the deposit amount to file an appeal for tax years beginning July 1, 2017

and later is \$50.00, but for appeals for tax years prior to July 1, 2017 the deposit amount is \$25.00. This deposit difference causes confusion for assessment notices relating to prior years. The increase of City expense to process and administer each appeal was the justification for the recent deposit increase. The expense to process prior years appeal is no less than the expense to process an appeal beginning July 1, 2017. The fiscal impact of item 5 is nominal, with the greater benefit being simplification of the appeal deposit amount, as intended in Bill 70 (Ord 17-006).

- 3. Repeal ROH Sec. 8-10.7; Exemption for persons with leprosy.** Currently the City recognizes three active exemptions under this section, as written; given the progression of treatment of individuals with leprosy, the likelihood of additional claimants is minimal or non-existent. The Commission recognizes the importance of such an exemption and is sensitive to continuing this exemption but believes that placement in ROH Sec. 8-10.8 may be a more appropriate section for persons with leprosy.

This proposal is a suggested technical change to simplify the administrative process of exemptions for persons with leprosy, including the option to update its qualification criteria. The Commission recognizes that individuals with leprosy shall continue to receive an exemption without interruption. The benefit of pursuing this proposal will not harm those currently claiming the exemption, but will include them in a different exemption section for uniformity and clarification. The fiscal impact to the exempt party is non-existent and the fiscal impact to the City is nominal. There are also administrative considerations due to the small number of existing claimants.

- 4. Repeal ROH Sec. 8-10.35; Central Kakaako Industrial Zone Limited Development.** This proposal would clarify a delineated boundary rather than use of property qualifications, because under the current ordinance constitutional issues may exist. Additionally, delineated boundary and preservation of industrial uses of the area conflicts with inferior infrastructure prohibiting improvements to prohibiting a Floor Area Ratio ("FAR") greater than 1.5. Filed Board of Review appeals have exposed such issues.

This proposal suggests the repeal of an exemption intending to retain industry use properties in Central Kakaako. This proposal addresses any claim that the current ordinance is unconstitutional. Specifically, the current ordinance could trigger claims that it may discriminate against similar type properties that would otherwise qualify for the exemption if it were not for the established physical boundaries. Regardless of whether this ROH section is unconstitutional or not, an argument is made that values of industrial properties of Central Kakaako restricted to a FAR of 1.5 were falsely inflated due to the market activity of surrounding larger-sized parcels with higher density capability beyond a 1.5 FAR. Claimants currently using the exemption may argue that without a 50% exemption, property owners would be forced to sell since they could no longer afford their higher real property taxes. However, as explained by the City Administration, Central Kakaako is a different market and independent from increases of larger-sized parcels with FAR greater than 1.5 outside of Central Kakaako. Any deficiencies (restricted 1.5 FAR and smaller parcel size) of Central Kakaako industrial use properties are already considered in assessed value and need not be further reduced by an exemption. Repealing this section of ROH benefits the tax system as it would remove a mechanism that undermines the assessment process and current tax policy. By removing this ROH section, the current tax year would have a revenue increase of approximately \$850,000.

- 5. Amend ROH Sec. 8-7.5(d); Require recordation of all Dedications.** The Commission recommends that ROH Sec. 8-7.5(d) be amended to direct the Real Property Assessment Division to file recordation at the Bureau of Conveyances of any residential property dedication and the expiration of the dedication authorized under this section. The Commission believes that recordation of the dedication balances the interests of current and future owners as well as the City and County of Honolulu by uniformly disclosing the existence of the dedication, while assuring that the benefit of the dedication that runs with the property after conveyance continues to a new owner(s) who continue to use the property as residential property during the dedication period contemplated under this section. Recordation of the dedication helps mitigate the possibility that an owner who may have been otherwise unaware of the dedication and its expiration would be caught off guard if the property is assessed in a "highest and best use" classification, even if the property continues to be used as a residential property after the expiration of the dedication, leaving them with no recourse for appeal. Finally, recordation of the dedication and expiration allowed under this section aligns the City with the practices used by other counties in the State of Hawaii.

Pending Proposals before City Council for Commission Consideration

1. **Bill 59 – Affordable Housing – RPT exemption for 3 years during construction.**

- **Summary of Bill:** The purpose and intent is to provide financial support for the creation and maintenance of affordable dwelling units that are provided through compliance with bills relating to affordable housing requirements (Bill 58, 2017), Planned Development-Transit (“PD-T”) permits, and qualifying rental housing projects pursuant to HRS 201H-36(a)(5). This measure proposes a full RPT exemption for affordable rental housing unit for the entire time it remains “affordable” whether it be 1 year or 20 years. The bill also allows an exemption from real property taxes during the period of construction for affordable dwelling units, up to three years.

- **Comments by EMT Subcommittee:** The Subcommittee recognizes the spirit of the legislation in addressing the need to build more affordable housing. This proposal may well do that; however, the Commission requests that a fiscal impact to the City be analyzed to help understand how much revenue the City will fail to realize during the regulatory period of an affordable rental unit qualifying for a full RPT exemption.

In analyzing the legislation, the proposal appears to incentivize the building of affordable housing units. Affordable housing is in high demand, with more than 24,000 units needed by 2020 based on the current and expected growing population of the City and County of Honolulu. The Subcommittee is generally in favor of the concept, but is uncertain as to the loss of revenue the City may suffer due to the proposal. Bill 59 currently proposes to fully exempt a qualified affordable rental dwelling unit for the “regulated period” – the time in which it meets the criteria of remaining “affordable” and meets the criteria set forth in subsection 8.10(c) of the bill. The question remains as to whether the cost of city services provided to these affordable units will now be borne by the general population of the City and County of Honolulu. How many of these units do we expect to be exempt for the “regulatory period” of affordability and who will bear the costs for their share of city services? It may be worthwhile to study New York City’s law 421a which provides a similar, but different tax exemption. <https://www.nytimes.com/2017/04/10/nyregion/affordable-housing-city-tax-break-developers.html>. New York’s new law is said to cost an estimated \$82 million a year in unrealized taxes.

2. **Bill 80 - Ocean Friendly Restaurants/Surfrider Foundation certification.**

- **Summary of Bill:** The term “ocean-friendly restaurant” was coined by a nonprofit organization called the Surfrider Foundation. Founded in 1984, with its home office in San Clemente, CA, the organization has as its mission “the protection and enjoyment of oceans, waves and beaches through a powerful activist network.” According to its website, it has 80 chapters nationally, five of which are in Hawaii (Kauai, Kona Kai Ea, Hilo, Maui, and Oahu chapters). The Surfrider Foundation’s [Ocean Friendly Restaurant Program](#) recognizes restaurants meeting certain defined criteria by giving them a blue placard to display, and by featuring those restaurants on its website. To be certified, a restaurant must meet four mandatory criteria, which are: (1) No expanded polystyrene use (aka Styrofoam). (2) Proper recycling practices are followed. (3) Only reusable

tableware is used for onsite dining, and disposable utensils for takeout food are provided only upon request. (4) No plastic bags offered for takeout or to-go orders. In addition, a restaurant needs to meet three out of six of the following: (5) Plastic straws are provided only upon request. (6) No beverages sold in plastic bottles. (7) Discount is offered for customers with reusable cup, mug, bag, etc. (8) Vegetarian/vegan food options are offered on a regular basis; and / or all seafood must be a 'Best Choice' or 'Good Alternative' as defined by [Seafood Watch](#) or certified as sustainable. (Seafood Watch is a program of the Monterey Bay Aquarium. They [classify seafood species](#) based on whether the seafood is caught or farmed responsibly.) (9) Water conservation efforts, such as low-flow faucets and toilets, are implemented. (10) Energy efficiency efforts such as LED lighting and Energy Star appliances, are in place.¹ Restaurants meeting all ten of these criteria are recognized as "Platinum Level Ocean-Friendly Restaurants." Oahu and the Neighbor Islands [each have several](#).

- **Comments by EMT Subcommittee:** This bill appears to favor one organization's interests above all else. As the Tax Foundation put it: Why do ocean-friendly restaurants merit a tax exemption while dog-friendly or bike-friendly restaurants don't? Should fast food drive-thru restaurants get an exemption for being car-friendly? Does the organization perform essential work or services that the government would have to perform itself if the organization were not present? The answer is no.

3. **Bill 79 - Organic Farms RPT**

- **Summary of Bill:** The purpose of this ordinance is to promote organic farming through a real property tax exemption.
- **Comments by EMT Subcommittee:** This bill affords special treatment to "organic" production vs. conventional production. The question arises as to how this RPT exemption would interact with the Ag Dedication. Would it make the possible RPT close to zero for qualifying farms? Does the organic farmer perform essential work or services that the government would have to perform itself if the organization were not present? The answer is no. The Subcommittee would like to hear recommendation from the City's Ag. Dev. Task Force, which is meeting on Nov. 7.

¹ Tom Yamachika, Tax Foundation of Hawaii Column, <https://www.tfhawaii.org/wordpress/blog/2017/10/ocean-friendly-restaurants-do-they-warrant-a-property-tax-exemption/>, Accessed November 2, 2017).

4. **Bill 91 - Active Duty USAF**

- **Summary of Bill:** The purpose of this ordinance is to provide current service members of the United States Armed forces with a real property tax exemption. Qualified taxpayers must own the home to receive full exemption.
- **Comments by EMT Subcommittee:** *Subcommittee requests to know what the fiscal impact to the City would be. Also how would the Dept. monitor/verify active membership in the military - would they file and then it would be renewed year after year?*

5. **Bill 52, Minimum Tax from \$300 to \$1,000 Historic Homes Real Property Tax Exemption**

- **Bill Summary:** Proposes to increase the minimum RPT tax from \$300 to \$1000.
- **Comments by EMT Subcommittee:** The Subcommittee is in support of this measure and would like to see the minimum tax be changed to \$1,000. *Fiscal impact should be determined.*