



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 FIFTH MEETING:
November 9, 2017**

APPROVED
CITY CLERK
HONOLULU
NOV 30 PM 2:53

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

Staff and Guests: Todd Swisher, Commission Aide, Office of Council Services
Randall Young, Office of Council Services
Mark Segami, Council Media and Communications
Raul Villanueva, Senior Adviser to Councilmember Fukunaga
Steven Takara, Real Property Assessment Division Administrator
Keith Yamashita, Real Property Appraisal Officer (BFS)

1. CALL TO ORDER

The meeting was called to order at 10:34 a.m. by Chair Oshiro.

2. APPROVAL OF MINUTES: OCTOBER 12, 2017

Chair Oshiro asked if there were any corrections to the draft minutes as circulated. Commissioner Murakami asked for two corrections to be made: clarification of the Classifications subcommittee's support for "affordable housing opportunities" on page 2 and a typo on page 3. Hearing no objections, the minutes of the October 12, 2017 meeting were approved as amended.

3. ORAL TESTIMONY ON AGENDA ITEMS

Chair Oshiro called for oral testimony on all agenda items. Mr. Ropati Soosenuu suggested that, in addition to further study of property tax measures, the minimum wage should be examined. Commenting on Bill 80 (2017), Mr. Soosenuu expressed concern that competition between businesses could become unbalanced and suggested a compromise should be found. Mr. Frank Young gave testimony in opposition to the repeal of ROH Section 8-10.35 (Central Kakaako industrial zone limited development), stating that the author of the rationale is inaccurate, distorted, and contains false statements. Mr. Young asked if the Commission does fact-checking of the numbers with which it is presented. He emphasized the high property taxes owners/lessees of industrial parcels in Kakaako pay and stated that many of the neighborhood's streets are private and not maintained by the City. Chair Oshiro noted that Mr. Young had

1. Classifications Subcommittee (Commissioners Leong, Murakami, and Okubo)

A) Consider treating all condominium units used for time share use the same by repealing ROH §8-7.1(c)(4)

Commissioner Murakami explained the rationale from RPAD, which was rooted in fairness. All timeshares in the City that are not dedicated for residential use should be classified by highest and best use. Vice-Chair Okubo emphasized that owners of the affected condo units could still petition for the residential use dedication, where appropriate.

B) Recommend redefining “Residential A” in ROH §8-7.1(i) to include parcels in the P-1, P-2, and Country zoning districts.

Vice-Chair Okubo explained that the rationale was to give equal treatment to all Oahu residences over \$1 million in assessed value with no home exemption. Commissioner Murakami suggested that it's really a definitional change. Following these comments, Chair Oshiro invited RPAD representatives to come to the Testifier's Table in order to give comments freely as the Commission proceeded with its review of subcommittee recommendations. RPAD Administrator Steven Takara approached and stated that he would be available for questions and comments. Prompted by Chair Oshiro, Administrator Takara clarified that farm dwellings (residences on ag-zoned land) would not be subject to Residential A, as Ms. Iwasa had suggested might be the case.

C) 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.

Commissioner Murakami explained that the subcommittee had not formed a particular recommendation but that their intention was to see if there are tools either in the current code or that could be put into the code that incentivize owners of existing properties to rent at affordable rates. He distinguished this concern from related concerns about *development* of affordable housing and affordable rental units.

D) 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.

In reference to Mr. Young's earlier question, Commissioner Murakami stated that the subcommittee did take at face value the information provided by RPAD. He commended Mr. Young for testifying on behalf of his community. In reply to a question from Commissioner Murakami, Administrator Takara confirmed that it was his understanding that the justification for the exemption had to do with the inferior infrastructure of central Kakaako relative to the rest of Kakaako and to other areas on the island. Referring to Mr. Young's written testimony, Commissioner Murakami asked if the exemption would sunset in 2027. Administrator Takara clarified that a claimant must have their FAR recertified every two years by HCDA and that the exemption can be claimed for a maximum of ten years. It is, in essence, a ten year pilot program. Commissioner Alivado asked about whether there had been any challenges to the Ordinance 16-21's constitutionality. Administrator Takara stated that he did not want to pronounce on "constitutionality." He explained that in some cases a business on the opposite side of the street from a successful claimant has been denied, which wasn't the introducer's intention. This may make the City vulnerable to legal challenge. As for the challenges facing

The definition withstood the Court but the ambiguity could be cleaned up as a housekeeping matter.

2. Exemptions and Minimum Tax (Commissioners Alivado, Chun, and Higashi)

Commissioner Alivado explained the organization of the Exemption and Minimum Tax subcommittee's report, which was attached to the meeting agenda. The first section of the report covers proposals for consideration, largely based on the RPAD's recommendations. The second section covers a handful of bills before the City Council. The subcommittee examined the guidelines the 2014 Commission used when evaluating exemptions, which inspired a few key questions, including: 1. "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?" and 2. "Does the proposal provide an unfair advantage?"

A) Repeal ROH Sec. 8-7.3(c). Dedication of land for agricultural use

Commissioner Alivado explained that the subcommittee deferred to the judgment of the Agricultural Development Task Force. Commissioner Alivado attended part of their November 7th meeting and her impression was that they wanted to hold off on supporting the recommended repeal until they got more information. Administrator Takara stated that the Task Force recognized that circumstances had changed with respect to the calculation of the ag production rates but the members expressed concern over the impact to Oahu's farmers. The Task Force requested a "spot check" of impacts to a sample of farmers. Administrator Takara reported that the Task Force was interested in exploring whether there was a better way to determine ag production rates than is currently being practiced. Commissioner Alivado stated that, based on the Task Force's hesitation, she believed the Commission would not want to move forward on the recommended repeal.

B) Amend ROH Sec. 8-12.10. (Bill 70(2016); Ord 17-006) Costs – Deposit for an appeal. (Housekeeping) Leprosy

Commissioner Alivado explained that this was a housekeeping measure to equalize the cost of deposits for appeals regardless of the tax year in question.

C) Repeal ROH Sec. 8-10.7; Exemption for persons with leprosy.

Commissioner Alivado clarified that the change would not get rid of the exemption for leprosy. Administrator Takara further explained that the exemption for persons with leprosy would be repealed but would then be moved under the exemption for persons who are totally disabled. Definitions and criteria for qualification may need to be updated. In response to a question from Commissioner Murakami, Administrator Takara confirmed that persons with leprosy will get the same tax benefit, and if anything, more individuals will likely qualify.

D) Repeal ROH Sec. 8-10.35; Central Kakaako Industrial Zone Limited Development.

Commissioner Higashi asked Mr. Young, who testified on this exemption, what he would think of the Commission's recommending the exemption be retained or, alternatively, assessed by the City to see if it has served the desired intent. Mr. Young explained that he had attended the meeting in order to present the facts and would defer to the Commission on a decision. He agreed with Commissioner Higashi's characterization of his position as being that the pilot program should be allowed to run until its conclusion and that stopping it early would be premature.

1. Bill 79 (2017)

Bill 79 (2017) would establish an exemption for certified organic farms. It passed Second Reading at the November 1 Council meeting. Commissioner Higashi reported that the Exemptions and Minimum Tax subcommittee asked for feedback from the Agricultural Development Task Force. The Task Force seemed to conclude that "farming is farming" and that a special exemption for organic farming would not be necessary or constructive. The Exemptions and Minimum Tax did not intend to take a position on the bill. Administrator Takara added that the bill came out of the sustainability movement and that, according to the Task Force, all agriculture contributes to sustainability.

2. Bill 80 (2017)

Bill 80 (2017) would establish an exemption for "ocean-friendly restaurants." It passed First Reading at the November 1 Council meeting. Commissioner Higashi stated that the bill seems to be narrowly construed and may invite the possibility of exemptions for all kinds of other "____-friendly" restaurants. He also noted that, in its original form, Bill 80 (2017) called for certification to be done by a third party nonprofit, the Surfrider Foundation. Commissioner Alivado reported that the CD1 version of the bill amended the certification procedure so that it would now be done by BFS. Administrator Takara explained that the Surfrider Foundations does not have the staffing to carry out the certification, and the criteria for qualifying was changed to a definition. He then briefly discussed the definition of "ocean-friendly restaurants" as laid out in the bill. In response to a question from Commissioner Alivado, Administrator Takara stated that RPAD would not be able to enforce the provision due in part to its lack of expertise in the area. Commissioner Murakami noted that, based on recent bills from the Council, exemptions seemed to be moving away from actual use to a fragmentation of use. Administrator Takara offered a distinction between a practice and the use of a property, stating that RPAD focuses on the use of a property.

3. Bill 91 (2017)

Bill 91 (2017) would establish an exemption for current service members of the United States Armed Forces. It passed Second Reading at the November 1 Council meeting. Commissioner Alivado stated that the Exemptions and Minimum Tax subcommittee recognized the importance of military service but had questions regarding lost revenue and how active service status would be verified and monitored. Administrator Takara echoed the appreciation for military personnel. He stated that at the current Residential tax rate an additional exemption of \$40,000 (\$120,000 vs. \$80,000 for regular home exemption) amounts to \$140 in lost revenue per claimant. Therefore, the City would lose \$1 million for every 7,143 claimants. He did not know how many claimants there might be. The City would need assistance from the armed forces to administer the exemption.

4. Bill 95 (2017)

Bill 95 (2017) would establish an exemption for "buy local restaurants." It passed First Reading at the November 1 Council meeting. There were no questions or comments on the bill.

5. Bill 97 (2017)

Bill 97 (2017) would augment an existing dedication program to include the cultivation of culturally significant fruits and flowers. It passed First Reading at the November 1 Council