

(RT)  
ORDINANCE NO. 82-66

BILL NO. 64 (1982)  
(Draft No. 4)

A BILL FOR AN ORDINANCE TO AMEND SECTION 8-7.1 OF THE REVISED ORDINANCES OF HONOLULU, 1978, AS AMENDED, RELATING TO REAL PROPERTY VALUATION FOR TAX PURPOSES.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend Section 8-7.1 relating to: 1) valuation of all property for tax purposes; 2) classification of individual condominium units; and 3) classification of residential lands into improved residential and unimproved residential.

Equitable real property assessment requires uniform reflection of market value for all property involved regardless of type. Market value is measured by selling prices in the open market. Therefore, analysis of market transactions must be the criterion for establishing assessment values. The cost approach has good application for properties that are special purpose in nature and that are not traded or are traded infrequently in the open market.

Current law provides for classification of land for tax purposes; therefore, all condominium units thereon are classified the same as the land they are situated on. Actually, these condominium units may be used for different purposes, e.g., the Ilikai, situated on Hotel zoned land, with units used for commercial, hotel, apartment rental, and residences of the owners. This amendment will allow classification of individual condominium units according to their actual use classification.

Unimproved residential lands are sufficiently different in terms of potential use and, therefore, may be taxed in accordance with desired economic and social objectives.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu, 1978, as amended, is hereby amended as follows:

Article 7. Valuations.

Section 8-7.1. Valuation; Considerations In Fixing.

(a) The Director of Finance shall cause the fair market value of all taxable real property to be determined and annually assessed [as provided by law;] by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the county; provided, that the value of land classified and used for agriculture, whether such lands are dedicated pursuant to Section 8-7.3 or not, shall, for real property tax purposes, be the value of such land for agricultural use without regard to any value that such land might have for

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other purposes or uses, or to neighboring land uses, and determined as provided in subsection [(f)(2)] (e)(1) of this section. In making such determination and assessment, the director shall separately value and assess, within each class established in accordance with subsection [(d)] (c) of this section: (1) buildings, and (2) all other real property, exclusive of buildings.

[(b)] All property shall be valued by appropriate systematic methods so selected and applied as to obtain, as far as possible, uniform and equalized assessments throughout the county.]

[(c)] (b) So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.

[(d)] (c) (1) Land shall be classified, upon consideration of its highest and best use, into the following general classes:

- (A) [Single-family residential,] Improved Residential,
- (B) [Two or more family residential,] Unimproved Residential,
- (C) Apartment,
- (D) Hotel and Resort,
- (E) Commercial,
- (F) Industrial,
- (G) Agricultural, and
- (H) Conservation.

(2) In assigning land to one of the general classes, the Director of Finance shall give major consideration to the districting established by the land use commission pursuant to Chapter 205, Hawaii Revised Statutes, the districting established by the county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use.

(3) When property is subdivided into condominium units, each unit shall be classified upon consideration of its actual use into one of the general classes in the same manner as land except that units which have been allowed a home exemption for the tax year shall be classified Improved Residential.

(4) "Improved Residential shall mean land which is classified as residential by the department of finance upon consideration of its highest and best use, and is property which fulfills the provisions of at least one of the following sub-paragraphs:

(A) land which has been subdivided prior to any assessment year as a lot for single or two-family residential use in conformity with the then existing county zoning ordinances, and has been approved for sale or approved as being in conformity with all of the subdivision requirements of the city and county, or

(B) land which is in actual single or two-family residential use at a density of at least a single or a two-family residential building per acre, or

(C) land which is sufficiently developed with necessary land improvements to support a use density of at least a single or a two-family residential building per acre.

(5) "Unimproved Residential" shall mean all residential class lands not classified as "Improved Residential."

[(e) The director shall select and require the use of mathematical tables or formulas based upon a suitable unit of quantity and designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, street corners, and other physical elements the effect of which upon value the director finds feasible to determine by means of tables or formulas. These tables or formulas shall be used for all areas where this can be done appropriately, and in any event as provided in the next paragraph.]

(d) Whenever land has been divided into lots or parcels [which are used or suitable for use for residential, commercial, or other urban or village purposes,] as provided by law, each such lot or parcel shall be separately assessed [and the aforesaid mathematical tables or formulas shall be used unless this is precluded by the shape of the lots or parcels.]

[(f)(1) In determining the value of land, other than land classified and used for agriculture, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity, and nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability

of water and its cost, easements and appurtenances, zoning, dedication of lands as provided for in Section 8-7.3, and further to the opinions of persons who may be considered to have special knowledge of land values, and all other influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value.]

(e)(1) [(2)] In determining the value of lands which are classified and used for agriculture, whether such lands are dedicated pursuant to Section 8-7.3 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of persons who may be considered to have special knowledge of land values.

(2) [(3)] A deferred or roll-back tax shall be imposed on the owner of agricultural lands assessed according to their agricultural use as provided in subsection (a) of this section in the event of a change in land use classification by the authorized State agency to urban or rural districts or upon the subdivision of the land into parcels of five acres or less, provided that the tax shall not apply if the owner dedicates his land as provided in Section 8-7.3 within three years from the date of the change in land use classification and fulfills all of the requirements of the dedication. The deferred tax shall be due and payable at the end of the third year following the change in land use classification provided that the land shall continue to be used for agriculture during this period. The total amount of deferred taxes shall be computed commencing at the end of the third year following the change in classification where the land has continuously been used for agriculture, provided, however, that where the land has been put to a higher urban or rural use prior to the expiration of the three-year period, the amount of deferred taxes shall be computed commencing at the end of the year in which the land has been put to such higher urban or rural use, and shall be retroactive to the date the assessment was made pursuant to subsection (a) of this section provided the retroactive period shall not exceed ten years. Where the owner has subdivided his land into parcels of five acres or less, the deferred tax shall commence from the date the conversion was made retroactive to the date the assessment was made pursuant to section (a) of this subsection but for not more than ten years. Any other provisions to the contrary notwithstanding, the deferred or roll-back tax shall apply only if a change in land use classification has been made as a result of a petition by any property owner or lessee and shall apply only upon lands owned by the owner or lessee who has petitioned

for the change in classification. The deferred or roll-back tax shall not apply to lands owned by any owner or lessee who has not petitioned for the change in classification provided the owner or lessee shall continue to use the land in its agricultural use for a period of three years after the change in land use classification is made, or where the change in classification is initiated by any governmental agency or instrumentality. The deferred or roll-back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land at the tax rate applicable for the respective years.

(A) Where the owner subdivides his land into parcels of five acres or less, the deferred tax shall be due and payable within sixty days of such conversion, subject to a ten percent per annum penalty.

(B) Where the owner changes the land use classification, the deferred tax shall be due and payable within three years of such conversion except that where the land has been put to its higher urban or rural use, the tax shall be due and payable at the end of the year in which the land has been put to such higher use, subject to a ten percent per annum penalty.

Any other provision to the contrary notwithstanding, the land shall continue to be assessed in its agricultural use as provided in subsection (a) of this section until the land is put to its higher urban or rural use for a period of three years following the change in classification, whichever is shorter, provided that for purposes of determining the amount of deferred taxes to be assessed to the owner or lessee, the retroactive period shall include the period during which the land is continued to be assessed in its agricultural use following the change in classification. Any tax due and owing shall attach to the land as a paramount lien in favor of the county as provided for by ordinance.

(3) [(4)] Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to Section 8-7.3 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under this section.

[(g) Buildings shall be valued each year upon the basis of the cost of replacement less depreciation, if any. Age condition and utility or obsolescence shall be considered. The director shall determine and require the use of average-basic replacement cost factors.]

(f) In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction,

improvement or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings, provided, however, that any increase in value resulting from any additions, alterations, modifications or other new construction, improvement or repair work to buildings undertaken or made by the owner-occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of Part II of Chapter 53, Hawaii Revised Statutes, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.

It is further provided that the owner-occupant shall file with the Director of Finance, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:

(1) In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that are undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement shall be certified by the Mayor or any governmental official designated by him and approved by the Council, that the additions, alterations, modifications, or other new construction, improvement or repair work to the buildings were made and satisfactorily comply with the particular urban redevelopment, rehabilitation or conservation act provision, or

(2) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be certified by the Mayor or any governmental official designated by him and approved by the Council, that (A) the building was inspected by them and found to be substandard when the owner-occupant made his claim, and (B) the maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision. (Am. Ord. 80-14, 80-72)

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 Corporation Counsel need not include the brackets, the bracketed material or the underscoring.

SECTION 4. This Bill shall take effect upon approval by a majority of the counties.

INTRODUCED BY:

Samuel Clements By Request

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Council Members

DATE OF INTRODUCTION:

JULY 21, 1982

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Honolulu, Hawaii

APPROVED AS TO FORM AND LEGALITY:

James H. Howell  
Deputy Corporation Counsel

APPROVED this 23<sup>rd</sup> day of

December, 1982.

Eileen R. Anderson  
EILEEN R. ANDERSON, Mayor  
City and County of Honolulu