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1st Subcommittee on Rates and Classifications Meeting (August 31, 2021)

Via Zoom

Attendees: Commissioner Jack Legal, Commissioner Aki Peters, Commissioner Foo Pham

Commission Aide George White attended by request of the Commissioners.

The Subcommittee on Rates and Classifications ("Subcommittee") met virtually to discuss issues its members believe are within the scope of the subcommittee and should be evaluated by the O'ahu Real Property Tax Advisory Commission ("Commission"). Although not required, the Subcommittee provides this written report for the Commission meeting scheduled for September 7, 2021.

The topics discussed and included in this report are as listed:

1. Residential A Tiering Structure
2. Residential A Qualifications
3. Nomenclature of Residential and Residential A Classifications
4. Vacant Residential Properties
5. Land Value Taxation

Residential A Tiering Structure

The Subcommittee suggests the Commission report recommendations that answer the following questions regarding the Residential A Tiering Structure:

1. Should a third tier be added to the Residential A Classification as proposed in the current draft of Bill 20 (2021)?
2. Should third, fourth, and fifth tiers be added to the Residential A Classification as proposed in the original draft of Bill 20 (2021)?
3. Should the Residential A Tier 1 tax rate be applied up to the net taxable value of $1,000,000? $1,300,000 as proposed in the current draft of Bill 20 (2021)? A different value—if so, what?
4. Should the Residential A Tiers be defined with respect to the market median residential property prices instead of set dollar amounts?
5. Should the Residential A Tiers be defined with respect to the affordable prices by area median income (AMI) as defined annually by the Hawai'i Housing Finance & Development Corporation (HHFDC) instead of set dollar amounts?

The Subcommittee recommends the Commission take the following action regarding Bill 20 (2021) and Bill 31 (2020):

- Recommend amendment to Bill 20 (2021) such that the proposed amendment in Section 2(i)(1) be struck from the bill. This recommendation is to make Bill 20 (2021) solely about the tiering structure of the Residential A classification.
  Refer to the "Residential A Qualifications" section of this report for complementary and subsequent action.

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Residential A Qualifications

The Subcommittee suggests the Commission report recommendations that answer the following questions regarding the Residential A Qualifications:

1. Should the Country, P-1, and P-2 zones be added to the qualification criteria for the Residential A Classification as proposed in the current draft of Bill 31 (2021)?
2. Should the threshold of two single family dwelling units be changed to three units as proposed in the current draft of Bill 20 (2021)? *Note: The Subcommittee recommends this language be removed from Bill 20 (2021) and added to Bill 31 (2021).*

The Subcommittee recommends the Commission take the following action regarding Bill 20 (2021) and Bill 31 (2020):

- Recommend amendment to Bill 31 (2021) such that the Bill 20 (2021) proposed amendment in Section 2(i)(1) be added to Bill 31 (2021). This recommendation is to make Bill 31 (2021) solely about defining which characteristics qualify a property for the Residential A classification. *Refer to the "Residential A Tiering Structure" section of this report for complementary and preceding action.*

The Subcommittee suggests the Commission ask the Department of Budget and Fiscal Services the following question:

1. How many properties would be added into the Residential A classification by including the Country, P-1, and P-2 zones as proposed in the current draft of Bill 31 (2021)?

Nomenclature of Residential and Residential A Classifications

The Subcommittee discussed the confusing nature of the two residential property tax classifications. Discussion noted that it may be in the public's interest to revise the names to be more intuitive as public responses to recently proposed legislation suggest public confusion about how which rates and classifications apply to their homeowner's exempt properties.

The Subcommittee suggests the Commission report recommendations that answer the following questions regarding the nomenclature of the Residential and Residential A classifications:

1. Should the "Residential" and "Residential A" names be changed?
2. If the "Residential" and "Residential A" names should be changed, what names would reduce public confusion?
3. Should there be more than two classifications? Are two classifications too limiting?

The Subcommittee suggests the Commission ask the Department of Budget and Fiscal Services the following questions:

1. What would be the impact on the Department of Budget and Fiscal Services if the "Residential" and "Residential A" classification names were changed?
2. What would be the impact on the Department of Budget and Fiscal Services if the "Residential" and "Residential A" classification names were changed and additional classifications were added?

Vacant Residential Properties

The Subcommittee suggests the Commission report recommendations that answer the following questions regarding vacant residential properties:

1. Should vacant residential properties be taxed as a new property tax classification as proposed in Bill 76 (2020)?
2. Should vacant residential properties be assessed a separate fee without changing the properties' existing classifications (Residential and Residential A) instead of establishing a new property tax classification?
3. What characteristics of residential property should classify a property as a vacant residential property? (e.g. improved versus unimproved, listed for rental, listed for sale, without an occupant for a specified period of time)
4. Should revenue generated from a tax or fee on vacant residential properties be earmarked to a particular fund (e.g. an affordable housing fund)?

The Subcommittee suggests the Commission ask the Department of Budget and Fiscal Services the following questions:

1. How many vacant residential properties existing on O'ahu?
2. Does the department have resources to enforce a vacant residential property tax or fee? If not, what resources would the department need?
3. What is the department's opinion on the methods for enforcing a tax or fee on vacant residential properties?

The Subcommittee requests Commission Chair Rocky Mould take the following actions to assist the Commission in its evaluation of a tax or fee for vacant residential properties:

1. Invite expert testimony by developers, real property investment brokers, or other industry that sells residential property that ends up vacant.
2. Invite expert testimony by public officials of other governments that have implemented taxes and/or fees on vacant residential properties such as those referenced in the UCLA report on empty homes, Mayor's Message 83 (2020).

The Subcommittee suggests the Commission ask the Commission Aide George White take the following action:

1. Compare Bill 76 (2020) to proposals and/or passed legislation of other State of Hawai'i counties.

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Land Value Taxation Model

The Subcommittee discussed the consideration of a different property taxation method in the interest of incentivizing affordable housing, acknowledging that the high cost of land is a significant factor contributing to the high cost of housing units.

The Subcommittee suggests the Commission report recommendations that answer the following questions regarding vacant residential properties:

1. Should the City and County officially study the feasibility and effects of modifying the property tax structure to a land value property tax?
2. If a study is recommended, what questions does the Commission the study to evaluate?

The Subcommittee suggests the Commission ask the Department of Budget and Fiscal Services the following questions:

1. How is the property tax liability divided between owners of leasehold housing versus the land-owning lessors?
2. If a hollistic modification of the property tax structure were recommended by a study, what resources would the department need during implementation?
3. If a hollistic modification of the property tax structure were recommended by a study, what resources would the department need after implementation?