



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAX CLASSIFICATION.

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

SECTION 1. Purpose. The purpose of this ordinance is to classify properties used as bed and breakfast homes or transient vacation units as "hotel and resort" for the purpose of real property tax assessment.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-7.1 Valuation—Considerations in fixing.

- (a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the county.
- (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.
- (c) (1) Land shall be classified, upon consideration of its highest and best use, into the following general classes:
 - (A) Residential;
 - (B) Hotel and resort;
 - (C) Commercial;
 - (D) Industrial;
 - (E) Agricultural;
 - (F) Preservation;
 - (G) Public service; and



A BILL FOR AN ORDINANCE

- (H) Vacant agricultural
- (2) In assigning land to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any land classified as tree farm property under HRS Chapter 186.

- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:
 - (A) Shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as land; and
 - (B) Shall be deemed a parcel and assessed separately from other units.
- (4) Notwithstanding any provision contained in this subsection, a condominium unit which is used at any time during the assessment year as a time share unit shall be classified for the following tax year as "hotel and resort" unless:
 - (A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct,
 - (B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property, and
 - (C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A.

If the requirements of (A), (B) and (C) are met, the time share unit shall be classified as "residential." For purposes of this paragraph, "assessment year" shall mean the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar



A BILL FOR AN ORDINANCE

year preceding the tax year, and "time sharing" shall be as defined in Section 21-10.1.

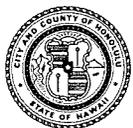
- (5) "Vacant agricultural" means a parcel, or portion thereof, which would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors which influence highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for agricultural purposes. If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

- (6) Notwithstanding any provision contained in this subsection, all lands actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, a public service company is defined as a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:
 - (A) "Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:
 - (i) Shall include any person insofar as that person owns or operates a private sewer company or sewer facility;
 - (ii) Shall include telecommunications carrier or telecommunications common carrier;
 - (iii) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;



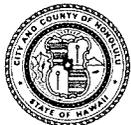
A BILL FOR AN ORDINANCE

- (iv) Shall not include persons owning or operating taxicabs, as defined in this subsection;
- (v) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;
- (vi) Shall not include persons engaged in the business of warehousing or storage unless the public utilities commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
- (vii) Shall not include:
 - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
 - (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the state or on luxury round-trip cruises returning to the point of departure;
- (viii) Shall not include any person who:
 - (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and
 - (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;



A BILL FOR AN ORDINANCE

- (ix) Shall not include a telecommunications provider only to the extent determined by the public utilities commission of the State of Hawaii, pursuant to applicable state law;
- (x) Shall not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable state law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and
- (xi) Shall not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
 - (aa) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least 10 percent of the wastewater processed is used directly by the state or county which has entered into the service contract;
 - (bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;
 - (cc) The facility shall not make sales of water to residential customers;
 - (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph xi, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and
 - (ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes.



A BILL FOR AN ORDINANCE

- (B) "Motor carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab.
- (C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air.
- (D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation.
- (E) "Taxicab" means and includes:
- (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
 - (ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957.
- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively



A BILL FOR AN ORDINANCE

available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signalling, or control devices.

(G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable state law.

(7) Notwithstanding any provision contained in this subsection, any property, including a condominium unit, which is used at any time during the assessment year as a transient vacation unit or a bed and breakfast home shall be classified for the following tax year as "hotel and resort." For purposes of this paragraph, "assessment year" shall mean the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year. For purposes of this paragraph, "transient vacation unit" and "bed and breakfast home" shall be as defined in Section 21-10.1.

(d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.

(e) When a parcel of land which has been classified as agricultural is improved with a single-family dwelling and has qualified for a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as residential. This classification shall:

(1) Apply only to that portion used for residential purposes;

(2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and

(3) Remain in effect only so long as the property qualifies for a home exemption.



A BILL FOR AN ORDINANCE

- (f) When a parcel of land which has been classified as preservation is improved with a single-family dwelling and has qualified for a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as residential. This classification shall:
- (1) Apply only to that portion used for residential purposes;
 - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
 - (3) Remain in effect only so long as the property qualifies for a home exemption.
- (g) (1) 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 HRS Chapter 53, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.
- (2) It is further provided that the owner-occupant shall file with the director, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:
- (A) 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 the mayor 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 development, rehabilitation or conservation act provision; or



A BILL FOR AN ORDINANCE

(B) 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 the mayor and approved by the council, that (i) the building was inspected by them and found to be substandard when the owner-occupant made the claim, and (ii) the maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.

[(h) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.]”

SECTION 3. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the bracketed material, or the underscoring.



A BILL FOR AN ORDINANCE

SECTION 4. This ordinance shall take effect upon its approval and shall apply to tax years beginning July 1, 2009 and thereafter.

INTRODUCED BY:

DATE OF INTRODUCTION:

NOV 20 2007

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 2008.

MUFU HANNEMANN, Mayor
City and County of Honolulu

FILED
NOV 20 2009
PURSUANT TO ROH Sec. 1-2.4