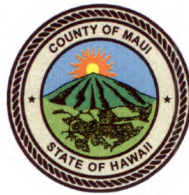


ALAN M. ARAKAWA
Mayor



DANILO F. AGSALOG
Director

RECEIVED

2017 AUG 25 PM 2:44

MARK R. WALKER
Deputy Director

OFFICE OF THE MAYOR


COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

August 25, 2017

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Riki Hokama
Chair, Budget and Finance Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
 8/28/17
Mayor Date

RECEIVED
2017 AUG 29 AM 10:06
OFFICE OF THE
COUNTY COUNCIL

Dear Chair Hokama:

**SUBJECT: REAL PROPERTY CLASSIFICATION OF LAND AND BUILDING
(PLANNED DEVELOPMENTS AND CONDOMINIUM PROPERTY
REGIMES) (BF-45)**

This is in response to your letter dated August 17, 2017. Your request for information regarding the proposed bill to amend Section 3.48.305, Maui County Code, relating to the classification of land and building as it pertains to planned developments where transient vacation rentals are permitted and to condominium property regimes is as follows:

1. Does the City and County of Honolulu, County of Hawaii, and County of Kauai have a long-term rental program or policy? If so, please provide a copy of the program or policy.

Yes, each County has a long-term rental program. See attached Exhibits A, B and C.

2. Provide the number of short-term and long-term rental units in Maui County.

Condominium Occupancy	Parcel Count	Class change to:
Total Number of Units	25,959	No change
Homeowner class	3,989	No change
Time share class	2,483	No change
Apartment class in resort occupied project (assumed second home)	2,057	Hotel/Resort
Apartment class in resident occupied project (assumed long-term rental)	6,473	No change

3. Explain the difference between "highest and best use" and "actual use."

Highest and best use is an appraisal term requiring that property be appraised as though it were being put to its most profitable and legal use. The principle entails first identifying the most appropriate market and second the most profitable use within that market.

Example 1: *Iao Parkside is zoned industrial but developed as a residential condominium project. It is legal to have apartments in industrial zoning. The buyers and sellers (the market) in Iao Parkside mostly use units as a home or long term rental therefore the highest and best use is apartment.*


Example 2: *Harbor Lights is zoned hotel but is developed as a residential condominium project. It is legal to have apartments in hotel zoning. The buyers and sellers (the market) in Harbor Lights use units as a home or long term rental therefore the highest and best use is apartment.*

Example 3: *Kaanapali Alii is zoned hotel and is located in a resort area with hotels. It is developed as a residential condominium project. It is legal to have apartments in hotel zoning. Most buyers and sellers (the market) in Kaanapali Alii use units as short term rentals (83%). The highest and best use of units in Kaanapali Alii is hotel. If an owner does not rent their unit, it is an unintended use and an underutilization of the land and improvement.*

4. Provide the number of units that will be affected by the proposed amendment resulting in units moving to either a lower or higher tax rate classification and the estimated change in tax revenue expected as a result of these reclassifications.

There are 2,845 units that could be affected by the proposed amendment. Of these units, 121 or 0.4% will move from Hotel/Resort class to Apartment class which will result in a decrease of \$228,920 in tax revenue. About 125 units will move from Commercial class to Hotel/Resort class, 2,599 units could move from Apartment class to Hotel/Resort class. The estimated tax revenue increase from these changes will be \$8,260,634. The net result in the tax revenue will be an increase of \$8,031,714. See Exhibit D.

Thank you for the opportunity to provide information regarding this matter and should you have any questions, please feel free to contact me at Ext. 7475.

Sincerely,

For **DANILO F. AGSALOG**
Director of Finance

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

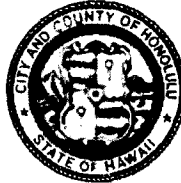
REAL PROPERTY ASSESSMENT DIVISION
842 BETHEL STREET, 2ND FLOOR * HONOLULU, HAWAII 96813
PHONE: (808) 768-7901 * FAX (808) 768-7782
WWW.HONOLULU.GOV

NELSON H. KOYANAGI, JR.
DIRECTOR

PETER M. BIGGS
DEPUTY DIRECTOR

STEVEN H. TAKARA
ADMINISTRATOR

KIRK CALDWELL
MAYOR



RESIDENTIAL USE DEDICATION

Certain condominium owners may now consider dedicating their properties for Residential Use for a five-year period if their units are being used as a primary residence, or a long-term rental (longer than 30 days at a time).

This option will allow the properties that are currently on land zoned as mixed use, hotel, or commercial, and whose Declaration of Condominium or Horizontal Property Regime specifically states that the unit is allowed to be used as residential, to be classified as Residential, and thereby eligible for the historically lower real property tax rate.

On June 16, 2017, the Real Property Assessment Division will be mailing out letters and petition forms to approximately 8,000 owners whose properties may qualify for the dedication.

If approved, the owner must commit to a five-year dedication, which is automatically renewable for additional five-year periods unless cancelled by either the property owner or the Director of Budget and Fiscal Services.

Upon sale or transfer of the dedicated property, the dedication will continue for the remainder of the dedication, but will not be automatically renewed. Once expired, the dedication will be cancelled, and the new owner must file a new petition to dedicate in order to continue with the Residential Classification.

Failure to observe the restrictions will result in a paramount lien upon the property, as well as rollback taxes and penalties.

This Residential Use Dedication will replace any previous methods by which condominiums on non-residential zoned lands were allowed to be classified as Residential. Previously approved Declaration Regarding Condominium Use forms are deemed to be invalid. A Home exemption will no longer automatically qualify a property for a classification as Residential.

The deadline to file this dedication is September 1, 2017. There will be no grace period or extension.

Should you have any questions please contact our offices at (808) 768-3799.

LIST OF CONDOMINIUM PROJECTS IMPACTED BY ORDINANCE 17-13

6/19/2017

	CONDOMINIUM PROJECT NAME	SITE ADDRESS	CONDO MASTER TMK	Property Zone
1	2338 YOUNG STREET	2338 YOUNG ST	280040520000	BUSINESS
2	441 LEWERS	441 LEWERS ST	260200690000	APARTMENT**
3	465 KAPAHULU*	465 KAPAHULU AVE	310220060000	BUSINESS
4	ALOHA SURF HOTEL	444 KANEKAPOLEI ST	260210160000	APARTMENT**
5	BAMBOO*	2425 KUHIO AVE	260230670000	RESORT
6	BEACH VILLAS AT KO'OLINA*	92-104 WAIALII PL	910570090000	RESORT
7	CABANA AT WAIKIKI	2551 CARTWRIGHT RD	260270270000	RESORT
8	CENTURY CENTER	1750 KALAKAUA AVE	230320070000	BUSINESS
9	EXECUTIVE CENTRE	1088 BISHOP ST	210120040000	BUSINESS
10	FOSTER TOWERS	2500 KALAKAUA AVE	260260140000	RESORT
11	HARBOR COURT	66 QUEEN ST	210020160000	BUSINESS
12	HAWAIIAN COLONY	1946 ALA MOANA BLVD	260070200000	RESORT
13	HAWAIIAN MONARCH	444 NIU ST	260140320000	APARTMENT**
14	ILIKAI APT BLDG	1777 ALA MOANA BLVD	260100070000	RESORT
15	ILIKAI MARINA	1765 ALA MOANA BLVD	260100020000	RESORT
16	IMPERIAL HAWAII RESORT	205 LEWERS ST	260020140000	RESORT
17	ISLAND COLONY	445 SEASIDE AVE	260210260000	APARTMENT**
18	KAIMUKIAN	1120 KOKO HEAD AVE	320060120000	BUSINESS
19	KALAKAUA SANDS	1670 KALAKAUA AVE	230230050000	BUSINESS
20	KALAKAUAN	1911 KALAKAUA AVE	260070040000	RESORT
21	KAPIOLANI MANOR*	1655 MAKALOA ST	230220520000	BUSINESS
22	KUHIO VILLAGE II	2450 PRINCE EDWARD ST	260230450000	RESORT
23	KUHIO VILLAGE I	2463 KUHIO AVE	260230500000	RESORT
24	LUANA WAIKIKI	2045 KALAKAUA AVE	260060020000	RESORT
25	MARINE SURF WAIKIKI	364 SEASIDE AVE	260190010000	RESORT
26	MEHANA-AWAKEA*	MANAWAI ST/KAKALA ST	911600470000	APARTMENT
27	MEHANA-NANALA*	KUNEHI ST /MANAWAI ST/KAKALA ST	910161590000	APARTMENT
28	MERIDIAN EAST	14 AULIKE ST	430540130000	BUSINESS
29	OCEAN VILLAS AT TURTLE BAY RESORT	57-020 KUILIMA DR	570010130000	RESORT
30	PACIFIC MONARCH	2427 KUHIO AVE	260230560000	RESORT
31	REGENCY AT BEACHWALK	255 BEACH WALK	260030140000	RESORT
32	RITZ CARLTON TOWER 1	383 KALAIMOKU ST	260180870000	RESORT
33	ROYAL ALOHA	1909 ALA WAI BLVD	260140260000	RESORT
34	ROYAL GARDEN AT WAIKIKI	440 OLOHANA ST	260160390000	APARTMENT**
35	ROYAL QUEEN EMMA	222 VINEYARD ST	210180420000	BUSINESS
36	SEASHORE	2450 KOA AVE	260230180000	RESORT
37	TRADEWINDS PLAZA	2572 LEMON RD	260270200000	RESORT
38	TRUMP INTL HTL & TWR AT WAIKIKI BCHWLK	223 SARATOGA RD	260030610000	RESORT
39	URAKU TOWER*	1341 KAPIOLANI BLVD	230390190000	BUSINESS
40	WAIKIKI BEACH TOWER	2470 KALAKAUA AVE	260230070000	RESORT
41	WAIKIKI GRAND HOTEL	134 KAPAHULU AVE	260270310000	RESORT
42	WAIKIKI PARKWAY APTS	1660 KALAKAUA AVE	230230060000	BUSINESS
43	WAIKIKI SHORES	2161 KALIA RD	260040120000	RESORT

*NOT ALL UNITS ARE ELIGIBLE

**APARTMENT ZONE PROPERTIES-Grandfathered Hotel and Resort Use.

DISCLAIMER: The City and County of Honolulu makes every effort to produce and publish the most current and accurate information available.

Parcel ID (Tax Map Key)



REAL PROPERTY ASSESSMENT DIVISION
DEPARTMENT OF
BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

In space above please enter the 12-digit Parcel ID.
For example: 210630150000

PETITION TO DEDICATE CERTAIN PROPERTY FOR RESIDENTIAL USE (5 Year Dedication)
Section 8-7.5, Revised Ordinances of Honolulu ("ROH")
(Filing deadline is September 1)

Petitioner Name (Primary Contact Person) Telephone Email Address

Site Address Mailing Address

LAND The property is zoned: [] Apartment [] Business [] Industrial [] Resort [] Transit Oriented Development (TOD)
[] Fee Simple [] Leasehold Expiration date of lease: _____

IMPROVEMENTS [] Detached dwelling Total number of detached dwelling(s): _____
[] Apartment building Number of apartment building(s): _____ Total number of apartment units: _____
[] Condominium unit Project Name _____
[] Condominium parking unit used in conjunction with residential unit # _____ within the same project.
[] Condominium storage unit used in conjunction with residential unit # _____ within the same project.

USE [] I live on the property and/or use it exclusively for my own personal use.
[] The property is being rented to one or more tenants for periods of 30 or more consecutive days.
Is any part of this property used for non-residential purposes? [] Yes [] No
If yes, indicate non-residential use: _____

CERTIFICATION OF PETITIONER (5 Year Dedication)
(Please use additional forms for more than 4 owners. If leasehold, the signature of the fee owner is not required.)
I/We hereby petition to dedicate the property for residential use. We certify that the property is in exclusive residential use, which may include a portion for nonprofit purposes as allowed by Ordinance and all persons having interest in the property have signed this petition and shall comply with the provisions of Section 8-7.5, ROH. Failure to observe the restrictions on the use of the property shall cancel the special tax assessment privilege with retroactive effect, and additional taxes and penalties, due and owing as a result of a breach of the dedication shall be a paramount lien upon the real property, in accordance with applicable ordinances. Pursuant to ROH Section 8-1.3(g), the Director has the authority to inspect records. The Director may request the following to verify residential use: a) Hawaii State Resident tax return; b) Federal tax return; and c) Rental/lease agreements.
Signature of Petitioner Print Name of Petitioner Date
Signature of Petitioner Print Name of Petitioner Date
Signature of Petitioner Print Name of Petitioner Date
Signature of Petitioner Print Name of Petitioner Date

Complete this petition form and deliver or mail (post office cancellation mark), on or before September 1, preceding the tax year for which you are petitioning to dedicate the property to either:

Real Property Assessment Division
842 Bethel Street, Basement
Honolulu, HI 96813

Real Property Assessment Division
1000 Uluohia Street #206
Kapolei, HI 96707

This petition cannot be filed via facsimile transmission or email. For a receipted copy, submit with a self-addressed stamped envelope. The Notice of Assessment, which is issued on December 15th each year, shall serve as notification of approval or disapproval of the petition for dedication.

FOR OFFICIAL USE ONLY
Received By: _____ Date Received (post office cancellation mark): _____
For Tax Year: _____ Petition No. _____ Land Classification _____ [] Approved [] Disapproved

INSTRUCTIONS FOR FORM (BFS-RP-P-41E)
PETITION TO DEDICATE CERTAIN PROPERTY FOR RESIDENTIAL USE (5 YEAR DEDICATION)

1. Enter the Parcel ID (Tax Map Key). This information can be found on your Notice of Assessment or by contacting the Real Property Assessment Division ("RPAD").
2. Enter the petitioner's name (primary contact person), telephone number, and email address.
3. Enter the site address of the property and the mailing address of the primary contact person. All communication regarding this petition will be sent to the mailing address. Should your mailing address change, please notify the RPAD in writing.
4. Enter the type of land zoning that the property is located on. Is the property fee simple or leasehold? If leasehold, enter the expiration date of lease.
5. Enter the type of improvement(s). Check applicable boxes for description of property to be dedicated.
 1. Detached dwelling and total number of detached dwelling(s).
 2. Apartment building, number of apartment building(s) and total number of apartment units.
 3. Condominium unit and project name.
 4. Condominium parking unit which is used in conjunction with a residential unit within the same project.
 5. Condominium storage unit which is used in conjunction with a residential unit within the same project.
6. Enter the type of use. Check applicable boxes.
 1. I live on the property and/or use it exclusively for my own personal use.
 2. The property is being rented to one or more tenants for periods of 30 or more consecutive days.
 3. Is any part of this property used for non-residential purposes? If yes, indicate non-residential use.
7. **All owners of record** of the property must sign the petition. If leasehold, the signature of the fee owner is not required; only lessees need to sign the form(s). Please use additional forms for more than 4 owners.
8. If hand delivered, the completed petition form must be received by RPAD no later than 4:30 p.m. on September 1st preceding the tax year in which the dedication will become effective, at one of the addresses listed below. If the petition is mailed, it must be postmarked by the U.S. Postal Service by midnight, September 1. If a receipt of the petition is requested, enclose a self-addressed stamped envelope. The petition cannot be filed by facsimile transmission or via email.

Real Property Assessment Division
842 Bethel Street, Basement
Honolulu, HI 96813
Telephone: (808) 768-3799

Real Property Assessment Division
1000 Uluohia Street #206
Kapolei, HI 96707
Telephone: (808) 768-3799

Note: When the due date for any notice, application, document or remittance required by this chapter falls on a Saturday, Sunday or legal holiday, the notice, application, document or remittance shall not be due until the next succeeding day which is not a Saturday, Sunday or legal holiday. [ROH Section 8-1.16]

Additional real property assessment forms and information can be found at www.realpropertyhonolulu.com and www.honolulupropertytax.com.

IMPORTANT:

The Notice of Assessment, which is issued on December 15th each year, will serve as notification of approval or disapproval of a petition for dedication.

- (B) The approval by the director of the petition to dedicate the land shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time.
 - (C) The failure of the owner to observe the restrictions on the use of the land as a golf course shall cancel the land assessment based on golf course use retroactive to the date of the dedication, but not more than 10 years prior to the tax year in which the dedication is canceled; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a six percent a year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of changing the use for any period. Nothing in this paragraph shall preclude the county from pursuing any other remedy to enforce the covenant on the use of that land as a golf course.
 - (D) The director shall prescribe the form of the petition. The petition shall be filed by September 1st of any calendar year and shall be approved or disapproved by October 31st of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on October 1st of the same calendar year.
 - (E) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
 - (F) When the owner has failed to observe the dedication restriction on golf course use, and at which time the dedication is canceled, the amount of additional taxes due and owing shall attach to the property as a paramount lien in favor of the county.
- (c) Dedicated property operated and used as a golf course shall be valued and assessed for property tax purposes on the following basis:
- (1) The value to be assessed by the director shall be on the basis of its actual use as a golf course rather than on the valuation based on the highest and best use of the land.
 - (2) In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, and sale price.
- (d) Covenant Not to Engage in Discrimination. The owner shall covenant in the owner's petition with the director that the owner will not discriminate against any individual in the use of the golf course facilities because of the individual's race, sex, religion, color or ancestry.
- (Sec. 8-7.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 00-64)

Sec. 8-7.5 Certain property dedicated for residential use.

(a) As used in this section:

"Apartment building" means a multi-family dwelling that is situated on a single parcel, which parcel is not subdivided into condominium units.

"Detached dwelling" is as defined in Section 21-10.1.

"Dwelling unit" is as defined in Section 21-10.1.

"Lodging unit" is as defined in Section 21-10.1.

"Multi-family dwelling" means a building containing three or more dwelling or lodging units, as defined in Section 21-10.1, which is not a hotel.

"Owner" means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least five years from the date of the petition.

"Residential use" means the actual use of a dwelling unit or lodging unit as a residence: (1) by occupants for compensation for periods of 30 or more consecutive days; (2) by the unit owner personally or (3) by the unit owner's guest(s) without compensation. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of employees. Residential use specifically excludes the use of the unit as a transient vacation unit or for time sharing. For purposes of this dedication, residential use shall include the use of the unit as a group living facility, a boarding facility, or as special needs housing for the elderly.

(b) The owner of a parcel may dedicate the parcel for residential use and have the property classified as residential and assessed at its value in residential use, provided that the property:

- (1) Is within an apartment, apartment mixed use, resort, business, business mixed use, industrial or industrial mixed use district; or if it is in the Waikiki special district, is zoned apartment mixed use subprecinct, resort mixed use precinct, or resort-commercial precinct; or is in a transit-oriented development zone pursuant to Section 21-9.100;
- (2) Is used exclusively for residential use, except that a portion of the property may be used for nonprofit purposes pursuant to Section 8-10.10; and
- (3) The parcel is improved with one or more detached dwellings, as defined in Section 21-10.1 or with one or more apartment buildings or with both dwellings and apartment buildings.

(c) The owner of real property who wishes to dedicate such property for residential use and have the property

assessed at its value in residential use according to subsection (b) shall petition the director and declare in such petition that if the petition is approved, the owner shall meet the applicable requirements of subsection (b) pertaining to the property.

- (d) The approval of the petition by the director to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of such person's land for a minimum period of five years, automatically renewable thereafter for additional periods of five years subject to cancellation by either the owner or the director. Cancellation of the dedication by the owner must be in writing and submitted to the director by September 1st only within the 5th year of the date of the dedication, or the latest five-year renewal period. For the purpose of this dedication, there is no change in use if the owner demolishes and constructs or reconstructs one or more detached dwellings or multi-family dwellings, provided that such construction or reconstruction is permitted pursuant to Chapter 21, Revised Ordinances of Honolulu 1990, as amended, the replacement structure or structures are completed no less than 24 months after the building permit is issued, and at least the same number of dwelling or lodging units as those demolished are developed. The five-year dedication will be suspended during this period of demolition and construction or reconstruction, and the parcel and any improvements thereon will continue to be classified and assessed at their value in residential use during the suspension.
- (e) (1) Failure of the owner to observe the restrictions on the use of such person's property or the sale of the property shall cancel the special tax assessment privilege retroactive to the tax year preceding the tax year in which the breach of the dedication occurs, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a 10 percent per year penalty retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the property in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the property.
- (2) The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter.
- (f) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year. The notice of assessment shall serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication shall be effective as of October 1st of the same calendar year.
- (g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
(Sec. 8-7.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 09-32, 10-14, 10-30, 10-31, 12-14)

Sec. 8-7.6 Property dedicated for low-income rental housing.

- (a) For the purposes of this section, "low-income rental housing" means housing rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 50 percent of the city's area median income for the applicable household size, or less.
- (b) An owner of real property classified as Residential A used as low-income rental housing may make a five-year dedication of the property for low-income rental housing use and have the property classified as Residential provided that:
- (1) The property was purchased by the owner for less than \$1,000,000;
- (2) The property is exclusively used during the dedication period as a rental home or apartment unit with a lease period of at least one year; and
- (3) The rental home or apartment unit is rented at a rate that meets the requirements of low-income rental housing as defined in subsection (a).
- (c) Any owner desiring to dedicate the owner's property for low-income rental housing shall petition the director, describing the property to be dedicated, providing evidence that the property is currently used exclusively for affordable rental housing, and declaring that such use will continue in the dedicated tax years and the owner shall meet the applicable requirements of subsection (b) pertaining to the property.
- (d) The director shall prescribe the form of the petition. The petition for the following tax year must be filed with the director by September 1st of any calendar year. The notice of assessment will serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication will be effective on October 1st of the same calendar year and apply to the following tax year.
- (e) The director shall make a finding whether the property is and will be maintained and used for the sole purpose of providing low-income rental housing. That finding will be based on the rental agreement or agreements and such other evidence required of and provided by the owner as the director may deem pertinent.
- (f) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's real property for low-income rental housing for the dedication period. The

dedication period may be renewed in the same manner as the initial petition.

- (g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
 - (h) (1) Failure of the owner to observe the restrictions on the use of such person's real property will cancel the exemption retroactive to the date of the initial dedication, and all differences between the amount of taxes that were paid and the amount that would have been due from assessment without the dedication will be payable with a 10 percent per year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means any failure of 45 consecutive days or more during the tax year of the exemption to use the real property in the manner certified in the petition or the overt act of changing the use for any period. Nothing in this subsection precludes the city from pursuing any other remedy to enforce the covenant on the use of the real property.
 - (2) The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication will be a paramount lien upon the property as provided for by this chapter.
 - (i) Prior to September 1st in each of the five years of the dedication, the owner shall submit to the director a copy of the rental agreement to be in force in the upcoming tax year.
 - (j) The director shall make and adopt necessary rules and regulations to administer this section.
- (Added by Ord. 15-6; Am. Ord. 16-8)

Article 8. Wasteland Development

Sections:

- 8-8.1 Definitions.**
- 8-8.2 Eligibility.**
- 8-8.3 Application.**
- 8-8.4 Classification.**
- 8-8.5 Development and maintenance of wasteland development property.**
- 8-8.6 Special tax assessment.**
- 8-8.7 Declassification.**
- 8-8.8 Appeals.**

Sec. 8-8.1 Definitions.

When used in this article:

"Department" means the department of finance.

"Director" means the director of the department of finance.

The term "owner" includes any person leasing the real property of another under a lease having a stated term of not less than 30 years.

"Wasteland" means land which is classified as such by the director of the department of finance.

(Sec. 8-8.1, R.O. 1978 (1983 Ed.))

Sec. 8-8.2 Eligibility.

Any property of not less than 25 acres in area is eligible for classification as wasteland development property if it meets the classification requirements of wasteland property as established by the director of finance. No real property under a lease having an unexpired term of less than 30 years shall be eligible for classification as wasteland development property.

(Sec. 8-8.2, R.O. 1978 (1983 Ed.))

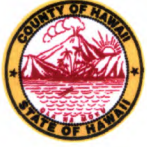
Sec. 8-8.3 Application.

The owner of any property may apply to the director of finance for classification of the owner's land as wasteland development property. The application shall include a description of the property, the manner in which the property will be developed, and such additional information as may be required by the director. The application shall state that all persons having any interest in or holding any encumbrance upon the property have joined in making the application and that all of them will comply with the laws and regulations relating to the use, building requirements, and development of real property.

(Sec. 8-8.3, R.O. 1978 (1983 Ed.))

Sec. 8-8.4 Classification.

- (a) Within four months after the filing of the application with the director of finance, the director shall make a finding of fact as to the eligibility of such land for classification as wasteland development property, whether it can be developed in the manner specified by the owner, whether the development will add to the development of the economy of the state, and whether the development will broaden the tax base of the state. The



AFFORDABLE RENTAL HOUSING PROGRAM INFORMATION

Qualifications

Residential rent at or below the designated rates for the entire calendar year.

General Information/Requirements

- An application, RP Form 19-53(h) must be filed annually to the Real Property Tax Division no later than December 31 preceding the tax year for which the classification is claimed.
- A separate application for each unit must be filed and all units must meet the affordable rental housing rate requirements.
- The owner shall submit proof of the monthly rent with a document such as the rental agreement signed by the renter.
- All owners or representative with an authorized document such as a power of attorney must sign the application.
- Uses that do not qualify as "affordable rental housing" include: (1) real property valued according to its nondedicated agricultural use, (2) real property which is dedicated to an agricultural use or native forest use, (3) real property used for commercial or income-producing purposes, except uses which is legally permitted as a home occupation in accordance with the zoning code.

Benefits

- The property will be classified in the homeowner land classification if it meets the provisions of this land category including being the owner's principal residence and the rental unit(s) meet the affordable rental housing rate requirements.
 - The year after being classified in the homeowner class category, the assessed value will not increase by more than 3% if the owner continues to own and occupy the property as the principal residence and reapplies to remain in this program.
- The property will be classified in the affordable rental housing classification if the rental or all rentals meet the qualifications of this program.
 - The year after being classified as affordable rental housing, the assessed value will not increase by more than 3% if the owner continues to own the property and reapplies to remain in the program.

Breach Conditions

- The rental of any unit during the calendar year exceeds the affordable rental rate.
- The ownership of the parcel changes and the transfer is subject to the conveyance tax under the terms of Chapter 247, Hawai'i Revised Statutes.

Retroactive Taxes

- Upon breach of the classification, the tax assessment shall be cancelled retroactive to the date of the classification, but for not more than the current year, and all difference in the amount of taxes that were paid and those that would have been due from the assessment in the higher classification shall be payable with a ten percent penalty.

CHAPTER 19**REAL PROPERTY TAXES****Article 1. Administration.****Section 19-1. Purpose.**

The purpose of this chapter is to implement the authority granted to the County to assess, impose and collect real property tax based on an amendment to the State constitution which was adopted on November 7, 1978, by the electorate. This chapter will provide for the administration, assessment, and collection of real property tax, including exemptions therefrom, dedication of land, and appeals.
(1983 CC, c 19, art 1, sec 19-1; am 1997, ord 97-84, sec 1.)

Section 19-2. Definitions.

Wherever used in this chapter:

“Affordable rental housing” means a residential unit where the rental cost does not exceed the affordable rental rate.

“Affordable rental rate” is a monthly rent not to exceed seventy-five percent of the Payment Standards as established by the office of housing and community development as of the first of January each year.

“Agriculture use value” means the productivity value for assessment purposes determined for lands being put to any agricultural use.

“Certification of rental rate” means the sworn statement of the parcel owner attesting under penalty of law the rental rate that the land owner will charge and maintain for all renters on that parcel for that calendar year.

“Commercial agricultural activities” shall mean the use of property to generate income, monetary gain or economic benefit in the form of money or money’s worth of a minimum \$2,000 annual gross income per farm operation, which may include multiple parcels that need not be contiguous, and/or the use of property that adheres to generally accepted standards or recognized practices within that agricultural industry.

“Commercial agricultural use dedication” means the use of land on a continuous and regular basis that demonstrates the owner is engaged in commercial agricultural activities from:

- (1) Intensive agriculture;
- (2) Orchards;
- (3) Feed crops and fast rotation forestry; or
- (4) Pasture and slow rotation forestry.

“Continuous and regular basis” shall be evidenced by the recurring planting, cultivation and harvesting of crops or ongoing animal husbandry or aquaculture activities that adhere to generally accepted standards or recognized practices within that agricultural industry.

“County” means the County of Hawai‘i.

- (h) Eligibility for affordable rental housing class.
 - (1) Real property occupied as affordable rental housing must be rented at a rate not to exceed the affordable rental rate for the entire calendar year claimed and must be legally permitted by all codes.
 - (2) All rental units on affordable rental housing properties must be rented at the affordable rental rates.
 - (3) Affordable rental housing properties shall not be excluded by the owner's principal residence also being on the property.
 - (4) For properties in the affordable rental housing class as of January 1, 2008, the assessed value of the property shall not increase more than three percent per tax year until the parcel is sold or any portion thereof sold by way of conveyance which is subject to conveyance tax under terms of chapter 247, Hawaii Revised Statutes, at which time the property will be assessed at market value. In addition to the three percent limit of this subsection, any improvements undertaken on the property within the tax year shall be assessed at market value. All parcels entering this class after January 1, 2008, shall have the assessed value as of January 1 of the following year and be subject to the above provisions.
- (i) Application for the affordable rental housing class.
 - (1) No affordable rental housing classification shall be granted unless the claimant shall annually have filed with the department of finance, on or before December 31 preceding the tax year for which such classification is claimed, a claim for such classification in such form as shall be prescribed by the department and shall include but not be limited to rental agreements signed by the renter or excise tax returns.
 - (2) No affordable rental housing classification shall be granted unless and until a Hawaii County real property tax assessor evaluates the property and establishes its current market value.
 - (3) The landowner shall submit a certification of rental rates affirming that the rental rates charged to all renters on that parcel shall be at the affordable rental rate and that rate will be maintained for the calendar year.
- (j) Breach of affordable rental housing class.
 - (1) Rental of any unit during the calendar year at a rate higher than the affordable rental rate shall breach the classification.
 - (2) Any conveyance of the parcel or portion of the parcel subject to conveyance tax under terms of chapter 247, Hawaii Revised Statutes, shall breach the classification.

- (3) Upon breach of the classification, the tax assessment shall be cancelled retroactive to the date of the classification, but for not more than the current year, and all difference in the amount of taxes that were paid and those that would have been due from the assessment in the higher classification shall be payable with a ten percent penalty.

(1983 CC, c 19, art 7, sec 19-53; am 1982, ord 834, sec 2; am 1984, ord 84-21, sec 1; am 1990, ord 90-136, sec 2; ord 90-157, sec 1; am 1991, ord 91-143, sec 2; am 1996, ord 96-71, sec 2; am 1997, ord 97-84, sec 1; ord 97-153, sec 2; am 2000, ord 00-48, sec 2; am 2003, ord 03-103, secs 2 and 3; am 2004, ord 04-67, sec 1; ord 04-121, sec 2; ord 04-143, sec 2; am 2006, ord 06-147, sec 2; am 2007, ord 07-107, secs 3 and 4; ord 07-163, sec 2; am 2008, ord 08-156, sec 2; am 2013, ord 13-72, sec 2; am 2014, ord 14-97, sec 2.)

Section 19-53.1. Valuation of public utilities.

- (a) Notwithstanding any section to the contrary, the director of finance, in determining the market value assessment of the property of the public utilities, may use the values for real property as set forth in the annual financial reports of the public utilities as filed with the Public Utilities Commission, pursuant to chapter 269, Hawai'i Revised Statutes, as the basis for the director's assessment, which shall be deemed prima facie correct. Due to the unique nature of the public utility and its equipment, assignment of values to individual tax map keys is not required.
- (b) For the purposes of this section, the following definitions are also adopted:
 - (1) "Public utilities" are as defined in section 269-1, Hawai'i Revised Statutes.
 - (2) "Outside plant" means public utility real property, predominantly production, transmission, collection, switching, and distribution facilities, that may consist of one or more of the following:
 - (A) Units that have physical and functional characteristics that are so similar that they are accounted for as a group or class and are generally installed on easements.
 - (B) Transmission cable, wire or pipes, including support or conduit structures.
 - (C) Substation equipment.
 - (D) Measuring and regulating equipment.
 - (E) Generation equipment.
 - (F) Storage equipment.
 - (G) Switching equipment.
 - (3) "Plant or structure" means public utility real property improvements that are not outside plant, such as buildings, generating stations, production plants, gas compressor stations, boilers, switching plants, dams and reservoirs, circuit equipment, radio systems, terminals, satellite facilities, storage, wells, pumping facilities, and including those items which are included in the outside plant definition above.
 - (4) "Property" is the same as defined in section 19-2.

COUNTY OF HAWAII

Real Property Tax Office



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Hawaii County Tax Rates

Fiscal Year Beginning July 1, 2017 to June 30, 2018

PROPERTY CLASS	Tax Rate Per	Tax Rate Per
	\$1,000 Net Taxable Building	\$1,000 Net Taxable Land
0 Affordable Rental Housing	\$6.15	\$6.15
1 Residential	\$11.10	\$11.10
2 Apartment	\$11.70	\$11.70
3 Commercial	\$10.70	\$10.70
4 Industrial	\$10.70	\$10.70
5 Agricultural and Native Forest	\$9.35	\$9.35
6 Conservation	\$11.55	\$11.55
7 Hotel/Resort	\$11.55	\$11.55
9 Homeowner	\$6.15	\$6.15

Chapter 19, Article 11, Section 19-90 of the Hawaii County Code provides that the tax rates be set on or before June 20 preceding the tax year for which property tax revenues are to be raised. The Fiscal Year 2017-2018 tax rates were approved on June 5, 2017 by the County of Hawaii County Council Resolution No. 213-17.

Link to County Council Resolution: <http://records.co.hawaii.hi.us/webink/0/doc/933055/Page1.aspx>

County of Kaua'i
Dept. of Finance, Real Property Assessment Div.
4444 Rice St., Suite A-454 Lihu'e, Hawai'i 96766-1326
Phone: (808) 241-4224 Fax: (808) 241-6252
www.kauaipropertytax.com



2018 APPLICATION ONLY
LONG-TERM AFFORDABLE TENANT OCCUPIED RENTAL PROGRAM
FILING DEADLINE: SEPTEMBER 30TH

NOTICE: (1) Changes to any existing Rental/Lease Agreements must have the initials of the tenants and owner; agents' initials will not be accepted. (2) No fax copies of this application will be accepted; the application must have the original signature of the Owner, no agents' signatures. (3) Those submitting Rental/Lease Agreements expiring October 31st or before, must provide the renewal agreement not later than November 15, 2017. For applicants who filed and were approved for the 2017 tax year, the rental or lease agreement is multi-year, up to 3 years, may proceed and complete the Affidavit only.

PART I: OWNER INFORMATION

Tax Map Key No. (4) (Kaua'i) Zone Section Plat Parcel CPR/HPR Bldg./Unit #
Owner's Name:
Mailing Address:
City/State/Zip:
Home Phone: Business Phone: Cell Phone:

PART II: LONG TERM AFFORDABLE RENTAL TENANT OCCUPIED RENTAL APPLICATION DEFINITION AND QUALIFICATIONS

- 1. Definition: Long Term Affordable Rental means a dwelling subject to a written lease agreement with a term of (1) year or more and at monthly rent not to exceed the maximum housing cost based on 90% of the Kaua'i Median Household Income as set forth in the Kaua'i County Housing Agency Affordable Rental Housing Guideline for the year which the owner files his or her application. (Ordinance No. 1016, Approved August 14, 2017)
2. Rental Property Identification:

Property Address: House Number, Street Name and Town

3. Maximum Allowable Affordable Rental: (Please check appropriate description of your unit)

Table with 4 columns: Select number of bedrooms being rented with attached application, Description of unit with 1 year or longer rental agreement, Maximum monthly rental amount (utility allowance includes electric, gas, water and sewer), Owner pays all utilities, Tenant pays any utilities. Rows include Studio, 1-Bedroom, 2-Bedroom, 3-Bedroom, 4-Bedroom, 5-Bedroom.

**IMPORTANT: To qualify, you must submit an executed "CURRENT" copy of your Rental Agreement with this application. Each rental unit that you are applying for must be accompanied by an application and written rental agreement. Rental Agreement and/or Lease Agreement cannot expire on or before September 30, 2017 to qualify. If you have more than one rental unit on the same property, ALL rentals must qualify as Long-Term Affordable rentals to benefit the "Homestead" tax class. Tenants must be the age 18 years or older; children under the age of majority are not considered legal tenants; renters/lessees must reside on the property under this applications, as their principle residence.

4. Tenant Contact Information:

Renter's Name:
Mailing Address:
City/State/Zip:
Home Phone: Cell Phone: Email:

PART III: OWNER CERTIFICATION

Under penalty of perjury, I hereby certify that the information above is true and correct and that the rental agreement submitted with this application is a true and correct copy. I also certify that the lessee RESIDES in the property described above. I authorize the County of Kaua'i to verify my rental or any other information on this application. I, further agree to notify the Real Property Assessment Division within 30 calendar days if my property is (a) sold, (b) sublet, (c) no longer being leased by the lessee named on the submitted rental agreement residing on the property and/or (d) is no longer being rented at the affordable rental rate indicated on my application. ANY PERSON WHO FALSIFIES AND MISREPRESENTS ANY INFORMATION IN MEETING REQUIREMENTS OF CHAPTER 5A-11A.1 SHALL BE FINED \$1,000 OR IMPRISONED FOR NOT MORE THAN ONE YEAR OR BOTH.

X Signature of Owner (OWNER signature ONLY - NO AGENTS SIGNATURE) X Date

DEPARTMENT USE ONLY: Received date: Clerk

AFFIDAVIT

FOR MULTI YEAR LONG-TERM AFFORDABLE TENANT OCCUPIED RENTAL Annual Filing deadline: SEPTEMBER 30, 2017

TMK: _____
Zone Section Plat Parcel CPR/HPR

I, _____, whose current mailing address is

Owner of real property

_____, hereby acknowledges

Owner mailing address

and certifies, that I am applying for beneficial tax rate for each year of the rental/lease agreement

that said agreement is in full effect and that the following information is true and correct:

1. I am filing this Affidavit for the 2018 real property tax year
2. The Tenant(s) who executed the attached Rental/Lease Agreement has resided on the property since 2016 or before.
3. The rent paid by said Tenant, has not increased as submitted for the 2017 Long-Term Affordable Tenant Occupied Rental program.
4. Pursuant to the Rental/Lease Agreement, the Owner and Tenant, _____

Name of Tenant

_____ have agreed on a _____ year contract or indefinitely,
years of contract

(application for Long Term Affordable Tenant Occupied Rental program was approved in 2016), which expires _____, which is the date of expiration of this Affidavit and new Rental Agreement required.

Owner's initials: _____ The Owner acknowledges that the rent charged to Tenant, shall not change during the period of the Rental/Lease Agreement.

Owner's initials: _____ Should Tenant vacate property, should Owner sell property and/or decide not to rent or should Owner execute a new Rental/Lease Agreement with a new Tenant, the Owner shall provide the current contract to County of Kaua'i, Real Property Assessment Department within 30 days of any change in status.

Under penalty of perjury, I hereby certify that the information above is true and correct and that the rental agreement submitted with this application is a true and correct copy. I also certify that the lessee **RESIDES** in the property described above. I authorize the County of Kaua'i to verify my rental or any other information on this application.

ANY PERSON WHO FALSIFIES AND MISREPRESENTS ANY INFORMATION IN MEETING REQUIREMENTS OF CHAPTER 5A-11A.1 SHALL BE FINED \$1,000 OR IMPRISONED FOR NOT MORE THAN ONE YEAR OR BOTH.

IN WITNESS WHEREOF, I HAVE READ THIS AFFIDAVIT AND UNDERSTAND THE CONTENTS

AND CONSEQUENCES OF THIS AFFIDAVIT AND HAVE EXECUTED THE SAME ON THIS THE

_____ day of _____, 2017 .

For Official Use Only.

Rec'd by: _____

Dated: _____

Signature of Owner

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A,
SECTION 5A-11A.1, KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO THE BENEFICIAL TAX RATE FOR PROPERTY USED
FOR LONG-TERM AFFORDABLE RENTAL**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 5A, Kauai County Code 1987, as amended, is hereby amended by amending Section 5A-11A.1 to read as follows:

“Sec. 5A-11A.1 Beneficial Tax Rate for Property Used for Long-Term Affordable Rental.

(a) Definitions. As used in this Section:

“Dwelling” means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation.

“Long-term affordable rental” means a dwelling subject to a written lease agreement with a term of one (1) year or more and at a monthly rent not to exceed the maximum housing cost based on [eighty percent (80%) of the Kauai median household income as set forth in the Kauai County Housing Agency Affordable Rental Housing Guideline] the long-term affordable rental limit for the year in which the owner files his or her application.

“Long-term affordable rental limit” means the midpoint of the maximum rental limits for each unit type using between eighty percent (80%) and one hundred percent (100%) of the Kauai median household income as defined by the Kauai County Housing Agency Rental Housing Guidelines.

(b) Any owner who owns real property that is rented or leased as a long-term affordable rental shall receive the homestead tax rate as provided in Sec. 5A-6.4 provided that all dwellings on the property are long-term affordable rentals or owner-occupied.

(c) The owner may apply for the beneficial tax rate on a single year or multi-year basis. An owner with a multi-year written lease agreement may apply to receive the beneficial tax rate for each year that the lease agreement is in effect up to a maximum of three (3) years, provided that rent in each year of the lease does not exceed the long term affordable rental limits at the time of application. For each subsequent year of the multi-year lease, the owner shall file by September 30th, an annual affidavit confirming the unit(s) is still being rented at the specified rent level in accordance with the multi-year lease agreement. At the expiration of the multi-year beneficial tax period, the owner may file a new application to receive the beneficial tax rate as long as the property adheres to the long term affordable rental requirements at the time of the new application.

CHANGES TO CONDOMINIUM CLASSIFICATION 08/04/2017

Net result: \$8,031,714

CURRENT CLASS	PROPOSED CLASS	PROJECTS	COUNT	2017 NET VALUE	FY 17-18 tax rate actual use	FY 17-18 tax rate highest use	CURRENT REVENUE	PROPOSED REVENUE	TAX CHANGE
Time Share	Time Share	34	2,485	\$1,983,082,100	\$15.43	\$15.43	\$30,598,957	\$30,598,957	\$0
Homeowner	Homeowner	543	3,921	\$1,117,990,300	\$2.86	\$2.86	\$3,197,452	\$3,197,452	\$0
Apartment	Apartment	511	6,350	\$2,943,510,200	\$6.32	\$6.32	\$18,602,984	\$18,602,984	\$0
Commercial	Commercial	87	1,142	\$593,138,400	\$7.28	\$7.28	\$4,318,048	\$4,318,048	\$0
Hotel/Resort	Hotel / Resort	172	11,258	\$7,933,300,900	\$9.37	\$9.37	\$74,335,029	\$74,335,029	\$0
TOTAL		1,347	25,156	\$14,571,021,900			\$131,052,471	\$131,052,471	
PERCENT			89.8%						

CURRENT CLASS	PROPOSED CLASS	PROJECTS	COUNT	2017 NET VALUE			CURRENT REVENUE	PROPOSED REVENUE	TAX CHANGE
Hotel/Resort	Apartment	35	121	\$75,055,900	\$9.37	\$6.32	\$703,274	\$474,353	-\$228,920
TOTAL		35	121	\$75,055,900			\$703,274	\$474,353	-\$228,920
PERCENT			0.4%						

CURRENT CLASS	PROPOSED CLASS	PROJECTS	COUNT	2017 NET VALUE			CURRENT REVENUE	PROPOSED REVENUE	TAX CHANGE
Commercial	Hotel/Resort	34	125	\$104,495,400	\$7.28	\$9.37	\$760,727	\$979,122	\$218,395
Apartment	Hotel/Resort	159	2,599	\$2,636,799,700	\$6.32	\$9.37	\$16,664,574	\$24,706,813	\$8,042,239
TOTAL		193	2,724	\$2,741,295,100			\$17,425,301	\$25,685,935	\$8,260,634
PERCENT			9.7%						

EXHIBIT D