

DEPARTMENT OF FINANCE
CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

TITLE 4

SUBTITLE 5 REAL PROPERTY TAXATION

CHAPTER 16

HISTORIC RESIDENTIAL PROPERTY DEDICATION

RULES AND REGULATIONS OF THE DIRECTOR OF FINANCE
RELATING TO REAL PROPERTY TAX EXEMPTION AND DEDICATION
OF HISTORIC RESIDENTIAL REAL PROPERTIES UNDER SECTION
8-10.22, REVISED ORDINANCES OF HONOLULU, TO BE DESIGNATED
"PART XXVIII" AND TO READ AS FOLLOWS:

PART XXVIII

- Sec. 4-16-1 Purpose of rules
- Sec. 4-16-2 Definitions
- Sec. 4-16-3 Filing of the petition
- Sec. 4-16-4 Findings and review of petitions
- Sec. 4-16-5 Posting of sign
- Sec. 4-16-6 Enforceable restrictions of property dedicated
- Sec. 4-16-7 Revocation of dedication and retroactive assessment
- Sec. 4-16-8 Cancellation without retroactive assessment
- Sec. 4-16-9 Appeal
- Sec. 4-16-10 The director's authority
- Sec. 4-16-11 Retroactive application

Sec. 4-16-1 Purpose of rules. These rules and regulations are intended to implement the exemption provisions of Section 8-10.22, Revised Ordinances of Honolulu 1978, as amended, (hereinafter referred to as "ROH") relating to the dedication of historic residential properties.

Sec. 4-16-2 Definitions. (a) As used in these rules and regulations:

- (1) The term "director" means the Director of the Department of Finance, City and County of Honolulu, or his designee.
- (2) The term "historic residential property" means a residential real property that is registered or placed on the Hawaii Register of Historic Places after January 1, 1977, and certified by the Department of Land and Natural Resources, pursuant to Chapter 6E, Hawaii Revised Statutes.
- (3) The term "owner" means the owner of the improved residential land as defined in Section 8-6.3, ROH.

(b) Use of Gender and Number. Words importing the singular number shall extend to include the plural; words importing the plural shall extend to and include the singular; words importing the masculine or female gender shall extend to and include the female or the masculine, as the case may be.

Sec. 4-16-3 Filing of petition. (a) Any owner of registered historic residential property desiring to dedicate such a property or a portion thereof and to receive an exemption from property taxation shall file a petition for dedication with the director by September 1 of any year. The petition for dedication shall be submitted on a form prescribed by the director.

(b) Each owner shall include the following information as a part of the petition for dedication:

- (1) A map drawn to scale which shows the location of the historic residential dwelling.

- (2) Any agreement entered into with the Historic Preservation Office, Department of Land and Natural Resources, State of Hawaii, (hereinafter referred to as "Historic Preservation Office") relative to any legal obligations relating to the renovation, rehabilitation or other requirements to the property to be dedicated.
- (3) A certification by the owner that, upon approval of the dedication petition, the property shall be visually accessible to the public, or that the public shall be allowed visual visitations at least twelve days a year if the property is not visually accessible by a public way.
- (4) A certification by the owner that the current level of taxation is a material factor which threatens the continued existence of the historic status.
- (5) A certification by the Historic Preservation Office that the property is listed on the Hawaii Register of Historic Places.

Sec. 4-16-4 Findings and review of petitions. (a) The director shall make the following finding of facts with respect to the petition filed:

- (1) Whether the property or a portion thereof is designated and placed on the Hawaii Register of Historic Places. The director shall first verify such status with the Historic Preservation Office.
- (2) Whether the owner has certified that the current level of taxation is a material factor which threatens the continued existence of the historic residential property.
- (3) Whether the total area or only a portion thereof is used for residential purposes.
- (4) Whether the owner has certified that the property shall be visually accessible to the public, or that the public shall be allowed visual visitations at least twelve days a year where the property is not visually accessible by a public way.

(b) The findings shall be deemed favorable, if the director finds that:

- (1) The property is certified by the State's Historic Preservation Office to be on the Hawaii Register of Historic Places as a historic residential property;
- (2) The owner has certified that the current level of taxation is a material factor which threatens the continued existence of the property as a historic residential property;
- (3) The owner has certified that the property shall be visually accessible to the public, or that the public shall be allowed visual visitations to the property at least twelve days a year where the property is not visually accessible by a public way;
- (4) The area, or portion of the area, to be dedicated thereof is used for residential purposes and not for commercial or business purposes.

(c) If the findings are favorable to the owner, the petition shall be approved and the director shall determine the area or portion of the property that shall be exempt from taxation. The director shall disapprove the petition if any of the findings are not favorable to the owner. The approval or disapproval shall be made on or before December 15 and a notice thereof shall be sent to the owner.

- (1) If the petition is disapproved, the notice shall state the reasons for the disapproval.
- (2) If the petition is approved, the exemption based upon the dedication shall be effective July 1 of the tax year following the approval of the dedication. The director shall annually post and record the assessed value of the property determined as of the January 1 assessment date in the event the retroactive assessment is imposed. Notwithstanding any provisions to the contrary, the dedicated exempt property shall be subject to the minimum tax provisions of Section 8-11.1(g), ROH.

Sec. 4-16-5 Posting of sign. The owner shall place and maintain on the dedicated premises a conspicuous sign or plaque which shall be subject to review and concurrence of the Historic Preservation Office and the director prior to its placement on the dedicated property.

Sec. 4-16-6 Enforceable restrictions of property dedicated. (a) The approval of the petition by the director shall thereafter constitute a forfeiture on the part of the owner of any right to change the dedicated status of the property for a minimum period of ten tax years, automatically renewable indefinitely. Cancellation of the dedication by either the owner or the director may only be made upon a five years' written advance notice and no earlier than the end of the fifth tax year of the dedication.

(b) Any person who becomes an owner of the dedicated real property shall be subject to the restrictions and retroactive tax assessment provisions.

Sec. 4-16-7 Revocation of dedication and retroactive assessment. (a) In the event the owner fails to observe the requirements of the dedication or commits any act nullifying the historic status or the residential use of the property, then the director shall cancel the tax exemption and impose the retroactive tax assessment retroactive to the date of the dedication.

(b) The retroactive tax assessment shall be the difference in the amount of taxes that were paid and those that would have been due but for the exemption for each tax year retroactive to the date of dedication, together with interest at twelve percent per annum from the respective date that each such payment would have been due.

(c) All unpaid taxes, including retroactive tax assessments, shall constitute paramount liens upon the property as provided in Chapter 8, ROH.

Sec. 4-16-8 Cancellation without retroactive assessment. Where the owner submits the written notice of cancellation within the prescribed time as provided in Section 4-16-6 of these regulations, the dedication shall be cancelled and the retroactive assessment shall not apply.

(b) In the event that the subject property is destroyed by any natural disaster or by fire, and upon the verification by the Historic Preservation Officer that the restoration or reconstruction of the property is not feasible, the dedication shall be cancelled and the retroactive assessment shall not apply.

Sec. 4-16-9 Appeal. The owner may appeal any disapproved petition, retroactive assessment or any determination of the director made pursuant to Section 8-10.22, ROH, as in the case of an appeal from an assessment. Appeals shall be governed by the appropriate sections of Chapter 8, ROH, and may be taken to the Board of Review or directly to the Tax Appeal Court.

Sec. 4-16-10 The director's authority. In the enforcement and administration of these rules and regulations, nothing herein is intended to limit the director's authority to apply any of the provisions of Chapter 8, ROH, relating to real property taxation, and any and all other laws applicable thereto.

Sec. 4-16-11 Retroactive application. Ordinance No. 84-95 shall apply retroactively to a petition or application submitted to the director prior to September 1, 1983 for the 1984-85 tax year, and those pending on or before September 1, 1984 for the 1985-86 tax year. Upon approval of the retroactive exemption, the director is authorized to refund the property taxes paid for the 1984-85 and 1985-86 tax years on such dedicated historic residential properties.

The Procedural Rules for the Implementation of Section 8-10.22, Revised Ordinances of Honolulu, Relating to Real Property Tax Exemption and Dedication of Historic Residential Real Properties, were adopted on MAY 6 1985, following a public hearing held on March 27, 1985, after public notice was given in the Honolulu Advertiser on March 6, 1985.

These rules shall take effect ten days after filing with the City Clerk.

Rizalino R. Vicente
RIZALINO R. VICENTE
Director of Finance
City and County of Honolulu

Approved this 6th day of May,
1985.

Frank F. Fasi
FRANK F. FASI
Mayor
City and County of Honolulu

APPROVED AS TO FORM:

Waine T. Kawachi
Deputy Corporation Counsel

Received this 8th day of
May, 1985.

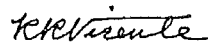
Raymond K. Ito
City Clerk

CERTIFICATE

I, RIZALINO R. VICENTE, Director of Finance, City and County of Honolulu, hereby certify:

1. That the foregoing is a full, true and correct copy of "PART XXVIII" of the Rules and Regulations of the Director of Finance, relating to historic residential property, having been adopted by the Director of Finance on May 6, 1985, after a public hearing held on March 27, 1985.

2. That notice of public hearing on the foregoing Rules and Regulations, which notice included a statement of substances of the proposed Rules and Regulations, was published in the Honolulu Advertiser on March 6, 1985.



RIZALINO R. VICENTE
Director of Finance
City and County of Honolulu

