

**DEPARTMENT OF BUDGET AND FISCAL SERVICES**

**SUBTITLE 5 REAL PROPERTY ASSESSMENT RULES**

**CHAPTER 130  
CLASSIFICATION OF CONDOMINIUMS**

- §130-1 Purpose
- §130-2 Definitions
- §130-3 Classification of Condominiums
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§130-1 Purpose. The purpose of this chapter is to implement and clarify the provisions of Section 8-7.1(c)(3)(A), Revised Ordinances of Honolulu (“ROH”), relating to the classification of condominium units upon consideration of the unit’s actual use and the effect on classification of a condominium unit which is used by occupants in a manner similar to a short-term use by transient hotel guests, or which qualifies for a home exemption. [Eff  
SEP 29 2007 ] (Auth: ROH §8-7.1, RCH 4-105) (Imp. ROH §8-7.1)

§130-2 Definitions.

“Actual use” means, for purposes of this rule, any legal existing or continuing activity, occupation, business or operation carried on in a condominium unit. Actual use is the privilege or benefit of using something in existence contrasted with a potential or possible use. Actual uses of condominium units include, but are not limited to, residential use, transient vacation unit use, time share use, commercial use, industrial use, and hotel use.

“Residential use” means, for purposes of this rule, the actual use of a dwelling unit or a lodging unit: (1) by occupants for compensation for periods of 30 or more consecutive days; or (2) by the unit owner personally or the unit owner's guest(s), either 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.

“Assessment date” means October 1st, of the year preceding the Tax Year.

“Assessment year” means, for purposes of this rule, 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.

“Commercial” use means, for purposes of this rule, the business of providing of goods and services for compensation.

“Director” means the Director of Budget and Fiscal Services.

“ Dwelling unit” means, for purposes of this rule, a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen. A unit or portion thereof used for time sharing or for transient vacation unit use cannot simultaneously be in dwelling unit use.

“Highest and best use” means the reasonably probable and legal use of property, that is physically possible, appropriately supported, and financially feasible, and that results in the maximum profitability.

“Hotel” means a building or group of buildings containing lodging and/or dwelling units in which 50 percent or more of the units are lodging units. A hotel includes a lobby, clerk’s desk or counter with 24-hour clerk service and facilities for registration and keeping of records relating to hotel guests in connection with a hotel operation.

“Hotel use” means, for purposes of this rule, the actual use of the condominium unit as part of a hotel operation.

“Industrial use” means, for purposes of this rule, the actual use of the condominium unit for manufacturing, research and development, warehousing/distribution or rendering services, such as laundries and drycleaners.

“Lodging unit” means, for purposes of this rule, a room or rooms connected together, constituting an independent living unit for a family which does not contain a kitchen. A unit or portion thereof used for time sharing or for transient vacation unit use cannot simultaneously be used as a lodging unit.

“Tax year” means the fiscal year beginning July 1<sup>st</sup> of each calendar year and ending June 30<sup>th</sup> of the following calendar year.

“Time sharing” or “time share use” means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:

- (1) “Time share plan” means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any occupant. The term Atime share plan≡ shall

include both time share ownership plans and time share use plans, as follows:

- (A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.
- (B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.
- (2) "Time share unit" means the actual and promised accommodations and related facilities, which are the subject of a time share plan.

"Transient vacation unit" means a dwelling unit or lodging unit which is provided for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of employees.

[Eff SEP 29 2007  
105) (Imp. ROH §8-7.1)

] (Auth: ROH§ 8-7.1, RCH 4-

§130-3 Classification of Condominiums.

- (1) The determination of "actual use" as mandated by ROH Section 8-7.1(c)(3)(A), as amended, shall require consideration of the unit's actual use during the Assessment Year.
- (2) If during the Assessment Year the unit is determined to have more than one actual use

occurring concurrently or at different times, the classification determination shall be based on consideration of the highest and best use of the unit from among the actual uses occurring.

- (a) However, when a unit is used in a manner similar to short-term use by transient hotel guests, the classification shall be determined as follows:
    - (i) Except as provided in ROH Section 8-7.1(h), when a condominium unit is used at any time during the Assessment Year as a transient vacation unit, the unit shall be classified as "Hotel and resort" as set forth in ROH Section 8-7.1 (c)(1)(B) for the following Tax Year, regardless of whether the unit is in residential use during the Assessment Year.
    - (ii) Except as provided in ROH Section 8-7.1(c)(4), when a condominium unit is used at any time during the Assessment Year for time sharing, the unit shall be classified as "Hotel and resort" as set forth in ROH Section 8-7.1 (c)(1)(B) for the following Tax Year, regardless of whether the unit is in residential use during the Assessment Year.
  - (3) If during the Assessment Year the actual use cannot be determined, and the director has no verifiable evidence regarding the actual use for the previous Assessment Year, the classification determination shall follow the general rule under ROH Section 8-7.1(c)(1) and (c)(2), which directs that classification shall be based on consideration of the highest and best use of the land.
  - (4) If during the Assessment Year the Director has no verifiable evidence that the actual use of the unit determined for the previous Assessment Year, based on verifiable evidence, has changed, then the unit shall continue to be classified based on the actual use determined for the previous Assessment Year.
- [Eff SEP 29 2007 ]

(Auth: ROH§ 8-7.1, RCH 4-105) (Imp. ROH §8-7.1)

§130-4 Effect on Classification of Home Exemption.

- (1) If during the Assessment Year a condominium unit qualifies in its entirety for a home exemption, then the unit shall be classified “residential” as set forth in ROH Section 8-7.1 (c)(1)(A) for the following Tax Year.
- (2) If during the Assessment Year a portion of a condominium unit qualifies for a home exemption, then the classification of the unit for the following Tax Year shall be based upon consideration of the actual use of that portion of the unit which does not qualify for the home exemption.

[Eff **SEP 29 2007** ] (Auth: ROH §8-7.1, RCH 4-105) (Imp. ROH §8-7.1)

§130-5 Severability. If any provision of this rule, or the application to any persons or circumstances is held invalid, the remainder of the rule, or the application of the provision to other persons or circumstances, shall not be affected.

[Eff **SEP 29 2007** (Auth: ROH §8-15.1)

§130-6 Effective Date. These rules shall take effect ten days after filing with the office of the city clerk and shall apply as well to reassessments from and after such date ordered upon remand by a court or other tribunal having jurisdiction.

[Eff **SEP 29 2007** (RCH 4-105; HRS §91-4)

DEPARTMENT OF BUDGET AND FISCAL SERVICES  
CITY AND COUNTY OF HONOLULU

These amendments to Rules and Regulations of the Department of Budget and Fiscal Services, Subtitle 5, Chapter 130, "Classification of Condominiums," were adopted on September 19, 2007. A public hearing was held on August 27, 2007, after public notice was given in the Honolulu Star Bulletin on July 23, 2007, with a corrected public notice given on July 24, 2007.



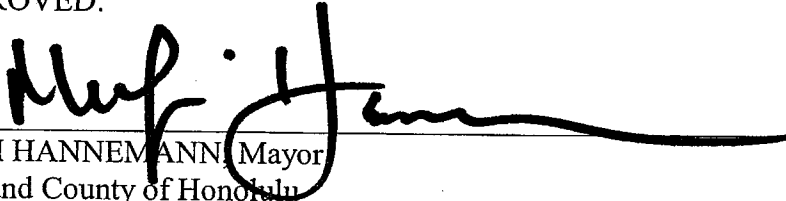
Mary Patricia Waterhouse, Director  
Department of Budget and Fiscal Services

APPROVED AS TO FORM AND LEGALITY



Deputy Corporation Counsel

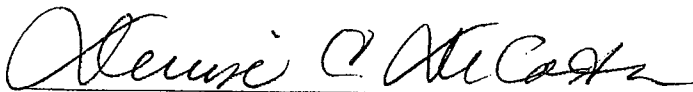
APPROVED:



MUFI HANNEMANN, Mayor  
City and County of Honolulu

Dated: SEP 19 2007

Received this 19th day of September, 2007.



Denise De Costa, City Clerk