

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
SUBTITLE 5 REAL PROPERTY ASSESSMENT RULES
CHAPTER 32
HISTORIC RESIDENTIAL PROPERTY DEDICATION

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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 1990, as amended, (hereinafter referred to as "ROH") relating to the dedication of historic residential properties. [Eff. **SEP 25 2011**] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

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

- (1) "Alternative visual visitations" means the alternative visual access provided to the public from a viewing point on the property.
- (2) "Average condition of property" means a finding by the director that all major components of a property are still functional and contributing toward an extended life expectancy and effective age and utility are standard for like properties of its class and usage; this finding will allow for some deferred maintenance and normal obsolescence with age, in that a few minor repairs and some refurbishing is needed.
- (3) "Day" means, for purposes of this rule, the seven consecutive hours running from 9:00 a.m. to 4:00 p.m.
- (4) "Director" means the Director of the Department of Budget and Fiscal Services (hereinafter "BFS"), City and County of Honolulu (hereinafter the "city"), or his designee.

- (5) "Historic property" means property that has been placed on the Hawaii Register of Historic Places and certified by the Department of Land and Natural Resources, pursuant to Chapter 6E, Hawaii Revised Statutes.
- (6) "Historic residential property" means a property that is both "historic property" and "residential property" as defined in this section.
- (7) "Owner" means the owner of the improved residential property as defined in Section 8-6.3, ROH.
- (8) "Plaque" means a plaque 10 inches by 14 inches in size, made of solid cast bronze, which identifies the property as a historic residence.
- (9) "Public way" means and includes any area open to the general public, such as a road, alley, street, way, right-of-way, lane, trail, bikeway, highway, bridge, sidewalk, park or beach and any private property usually open to the public, such as a parking lot.
- (10) "Residential property" means property improved with a one or two-family detached dwelling or a duplex unit. "Residential property" includes associated structures, such as carriage houses, ohana units and outbuildings. "Residential property" specifically excludes vacant parcels, districts, areas, or sites, including heiaus, burial and underwater sites.
- (11) "Sign" means, in the case of a historic residential property that does not provide visual access, a sign or signs on the historic residential property directing the public to the viewing point on the property. "Sign" also means a sign marking the location of the viewing point and establishing the point beyond which the public shall not advance.
- (12) "Visual access" means visual access at all times with the unaided eye from a distance of not more than 50 feet from the owner's property line from a public way as defined in this section, of the entire front or rear of the one or two-family detached dwelling or duplex unit, allowing for reasonable landscaping that does not obscure architectural features of significance, that is the subject of the petition for dedication under this section.

(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 feminine gender shall extend to and include the feminine or the masculine, as the case may be. [Eff **SEP 25 2011**] (Auth: ROH § 8-10.22, RCH § 4-105) (Imp. ROH § 8-10.22)

Sec. 4-16-3 Filing of petition. (a) Any owner of 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 1st of any year. The petition for dedication shall be submitted on a form prescribed by the director.

(b) Each owner of historic residential property with visual access shall include the following information as a part of the petition for dedication:

- (1) A site plan to scale which shows: (i) the boundaries of the property and the location of the historic residential dwelling on the property; (ii) the location of the public way clearly marked from which the public has visual access to the historic residential dwelling; and (iii) the location of the plaque. A color photograph (8x10 if printed, 300 dpi if digital) of the view plain from the public way to the historic residential property indicating visual access.
- (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 of 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.
- (4) A certification by the Historic Preservation Office that the property is listed on the Hawaii Register of Historic Places.

(c) Each owner of historic residential property without visual access shall include the following information as a part of the petition for dedication:

- (1) A site plan to scale which shows: (i) the boundaries of the property and the location of the historic residential dwelling on the property; (ii) the location of the public way clearly marked; (iii) the location of the plaque; and (iv) the location of the sign marking the viewing point and establishing the point beyond which the public shall not advance.
- (2) A color photograph (8x10 if printed, 300 dpi if digital) of the viewing point and any signs identifying the location of the viewing point or providing directions to the viewing point. A color photograph (8x10 if printed, 300 dpi if digital) of the historic residential property as seen from the viewing point.
- (3) Any agreement entered into with the Historic Preservation Office relative to any legal obligations relating to the renovation, rehabilitation or other requirements of the property to be dedicated.
- (4) A certification by the owner that, upon approval of the dedication petition, that the public shall be allowed alternative visual visitations at least twelve days a year on the second Saturday of each month from 9:00 a.m. to 4:00 p.m.

- (5) A certification by the Historic Preservation Office that the property is listed on the Hawaii Register of Historic Places. [Eff. SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-4 Findings and review of petitions. (a) The director shall make the following findings 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 total area or only a portion thereof shall be dedicated and exempt from real property taxation. Any building or portion of a building less than fifty years old shall not be exempted from real property taxes.
 - (3) Whether the owner has certified that the property shall be visually accessible to the public, or where the property is without visual access whether the owner has certified that the public shall be allowed alternative visual visitations at least twelve days a year on the second Saturday of each month from 9:00 a.m. to 4:00 p.m.
 - (4) Whether the property has visual access, including whether there is reasonable landscaping that does not obscure significant architectural features, and if not, whether the owner has taken all necessary steps to provide acceptable alternative visual visitations by designating a viewing point on the property and marking the viewing point with a sign and providing any other signs to assist the public in locating the viewing point. Any dispute as to whether the property has visual access or the landscaping is reasonable shall be decided by the director.
 - (5) Whether the historic property has been maintained, at a minimum, in average condition.
 - (6) Whether the proposed location of the plaque is where vehicular access to the front of the property is closest to the public way and whether the plaque would be visible and legible from the public way. If vehicular access is not to the front of the property, whether the proposed location of the plaque is at the front of the property closest to the public way. If visual access is of the rear of the dwelling, whether the proposed location of the plaque is at the back of the property closest to the public way.
- (b) The petition shall be granted, 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 property shall be visually accessible to the public, or where the property is without visual access that the public shall be allowed

alternative visual visitations to the property at least twelve days a year on the second Saturday of each month from 9:00 a.m. to 4:00 p.m.;

- (3) The use of the area, or portion of the area, to be dedicated is a legally permitted use;
- (4) The historic residential property has been maintained, at a minimum, in average condition; and
- (5) The director has inspected the historic residential property and
 - (A) there is reasonable landscaping that does not obscure architectural features of significance and the historic residential property has visual access; or
 - (B) the historic residential property, by way of a sign or signs and a viewing point on the property, is equipped to provide the public with alternative visual visitations; and
 - (C) the proposed location of the plaque is where vehicular access to the front of the property is closest to the public way and the proposed location of the plaque would be visible and legible from the public way, or if vehicular access is not to the front of the property, then the proposed location of the plaque is at the front of the property closest to the public way, or if visual access is of the rear of the dwelling, then the proposed location of the plaque is at the back of the property closest to the public way.

(c) If the findings are favorable to the owner and the petition is approved, 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 notice of assessment shall serve as notification of approval, approval in part, or disapproval of the petition for dedication.

- (1) If the petition is disapproved, the property will be assessed at fair market value pursuant to Section 8-7.1, ROH and taxes will be assessed at the applicable tax rate established pursuant to Section 8-11.1, ROH.
- (2) If the petition is approved or approved in part, the exemption for the approved area based upon the dedication shall be effective July 1st of the tax year following the approval or approval in part of the dedication. 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. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-5 Posting of plaque and signs. (a) The owner shall place and maintain on the dedicated historic residential property a conspicuous 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. Any dispute regarding the location of the plaque or the signs, shall be decided by the director as the location most likely to be seen by the public.

(b) The location of the plaque shall be clearly identified on the sketch or site plan included in the petition for dedication. Unless the director decides otherwise, the plaque shall be placed where vehicular access to the front of the property is closest to the public way, shall be visible and legible from the public way and shall be continuously displayed for the duration of the dedicated period. If vehicular access is not to the front of the property, then the plaque shall be placed at the front of the property closest to the public way. If visual access is of the rear of the dwelling, then the plaque shall be placed at the back of the property closest to the public way.

(c) The plaque shall be 10 inches by 14 inches (14 inches to be the vertical measurement), manufactured of solid cast bronze, and shall be designed to include an official city logotype adopted by the Department of BFS and filed with the office of the city clerk, with the words: "Historic Residence" in upper case lettering at least one inch high; and shall contain, at a minimum, historic information about the residence to include the date of construction, historic name or architect, and the historic significance.

(d) The plaque shall be installed (i) in a manner that does not destroy the historic building fabric; (ii) in a prominent location; and (iii) within 60 days of approval of the petition for dedication.

(e) For all historic residential properties that do not provide visual access, the owner shall place a conspicuous sign or signs, if necessary, on the dedicated property during the days designated for alternative visual visitations (i) directing the public to the viewing point on the property, if the viewing point is not visible from the public way; and (ii) marking the location of the viewing point and establishing the point beyond which the public shall not advance. The signs shall be manufactured of a durable material, such as plastic or wood, may be attached to an object or stand, that may be removed when the alternative visual visitation has concluded; and shall be subject to the review and concurrence of the director prior to their use on the dedicated property. The sign marking the viewing point shall be large enough to accommodate the words: "Viewing Point" in lettering two inches high. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-6 Enforceable restrictions of property dedicated. (a) The approval of the petition by the director shall thereafter constitute an obligation on the part of the owner to comply with the following requirements:

- (1) provide visual access, including reasonable landscaping that does not obscure significant architectural features, or alternative visual visitations as described in the approved petition;
- (2) maintain the historic residential property in at least average condition;
- (3) repair, maintain, improve and use the property in compliance with all statutes, ordinances, rules and regulations, and standards for historic residential properties; and

- (4) place and maintain an approved plaque on the property that is visible and legible from the public way;

for a minimum period of ten tax years, automatically renewable thereafter for additional periods of ten years, indefinitely, subject to cancellation of the dedication by either the owner or the director upon five years' written notice at any time after 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 requirements imposed under subsection (a) of this section and to the retroactive tax assessment provisions for violation for any of those requirements. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-7 Notification of noncompliance; opportunity to cure. (a) In the event the director, upon inspection, finds that the dedicated real property does not comply with the visibility or maintenance requirements set forth in Section 4-16-6 (a) (1) or (2), or the plaque or signs do not comply with the specifications set forth in Section 4-16-5, the owner shall be notified of the finding and the owner shall have 60 days to address the finding.

(b) In the event the owner fails to satisfactorily address the finding, the dedication shall be cancelled, the tax exemption disallowed, and the owner shall be subject to a rollback tax, penalty and interest as set forth in Section 4-16-8 below. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-8 Revocation of dedication and retroactive assessment. (a) The director shall cancel the dedication and disallow the tax exemption if:

- (1) the owner fails to observe the requirements and obligations of dedication and these rules;
- (2) a city department issues a citation for noncompliance with or violation of Chapters 16 through 21, ROH, or
- (3) the owner commits any act nullifying the historic status of the property or the property is removed from the historic register.

(b) The cancellation and disallowance shall subject the owner to a rollback tax and penalty, retroactive to the date of the last 10-year renewal of the dedication. All differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable, together with a 12 percent penalty and interest at 12 percent per year for each year of the rollback tax provided the provision in this subsection shall not preclude the city from pursuing any other remedy to enforce the covenant on the visibility, condition and use of the property.

(c) All unpaid taxes, including retroactive tax assessments, shall constitute paramount liens upon the property as provided in Chapter 8, ROH. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-9 Cancellation without retroactive assessment. (a) Where the owner submits the written notice of cancellation within the prescribed time as provided in Section 4-16-6 of these rules, 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. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-10 Appeal. The owner may appeal any disapproved petition, any petition disapproved in part, 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. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

Sec. 4-16-11 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. [Eff SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH § 8-10.22)

The Procedural Rules for the Implementation of Section 8-10.22, Revised Ordinances of Honolulu, Relating to Exemption--Historic Residential Real Property Dedicated for Preservation, were adopted on September 13, 2011, following a public hearing held on July 11, 2011, after public notice was given in the Star Advertiser on June 10, 2011.

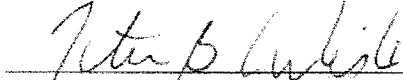
These rules shall take effect ten days after filing with the City Clerk.

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel

APPROVED:



PETER B. CARLISLE, Mayor
City and County of Honolulu

Dated: September 13, 2011

Received this 15th day of September, 2011.



BERNICE K. N. MAU, City Clerk