

# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3077

## OAHU REAL PROPERTY TAX ADVISORY COMMISSION

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**DATE:** NOVEMBER 23, 2021

**TO:** OAHU REAL PROPERTY TAX ADVISORY COMMISSION

**FROM:** SUBCOMMITTEE ON VALUATION

**SUBJECT: Report and Initial Recommendations**

The purpose of this written report of the Subcommittee on Valuation ("Report") is to present formal recommendations for consideration by the O'ahu Real Property Tax Advisory Commission ("ORPTAC") to be included in its interim report to the Council.

This Report is short in length, as it largely reiterates issues and concerns raised by the 2019 ORPTAC<sup>1</sup> that appear to have been ignored or not adequately addressed to-date.

In addition, the Subcommittee believes that the valuation (assessment) and appellate processes of the Real Property Assessment Division ("RPAD") of the City's Department of Budget & Fiscal Services could and should be more transparent and easily understandable to members of the general public, for whom they serve.

Lastly, the Subcommittee would like for the Commission to consider a recommendation to take a closer look at an equity issue in the manner in which properties are assessed, specifically as it relates to properties that are held in fee simple title versus leasehold.

## I. LACK OF PROGRESS OR CHANGE FROM 2019 ORPTAC REPORT

The 2019 ORPTAC explicitly recommended to the Council that "[p]eople should be able to find out the basis for government decisions" and that greater efforts towards transparency and informing the public should be made as it relates to the real property tax assessment process.

Specifically, the 2019 ORPTAC recommended that the City's RPAD website should be updated and overhauled to be more user-friendly, and provide greater and more

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<sup>1</sup> Report of the 2019 Oahu Real Property Tax Advisory Commission, December 2, 2019, Council Communication 394 (2019), available at: <https://hnlidoc.ehawaii.gov/hnlidoc/document-download?id=2643>

transparent access to public documents and the processes of the RPAD. To-date, there is still no explanation from RPAD regarding what, if any, changes have been made relating to the website and recommendations from the 2019 ORPTAC. These recommendations included providing homeowners a better understanding of how their properties are assessed, sample documents and basic layman information regarding the assessment process. It remains unclear why many similarly situated municipalities across the United States have no issue sharing such information on their websites, but for some inexplicable reason, the City and County of Honolulu will not.

## **II. LACK OF TRANSPARENCY IN VALUATION PROCESS**

The Subcommittee is still awaiting responses from RPAD regarding certain specific queries related to the valuation process, however, the Subcommittee is concerned that there is still no adequate or understandable description publicly available on how our properties are valued. Again here, other similarly situated municipalities in the United States do not appear to have an issue providing detailed and understandable information on how properties are assessed and valued by the City.

For example, the city of Denver in Colorado publicly provides extensive information in an effort to be transparent with and helpful to, the taxpayer, including explanations of relevant issues<sup>2</sup>, explanations<sup>3</sup> and trends.<sup>4</sup> It remains unclear why RPAD seems so resistant to this type of transparency and public engagement.

## **III. LACK OF CLARITY IN APPELLATE PROCESS**

The Subcommittee has concerns that in addition to the perceived difficulty for a public taxpayer to understand how their property is valued, they also have unnecessary obstacles and difficulties in understanding whether and how to appeal the assessment of their property, largely due to the cumbersome and complicated manner in which RPAD shares this information.

Presently, regarding a taxpayer's basis for appeal, the RPAD just provides the legal language pulled from the ordinance on their website, without further explanation:

*"When you file an appeal, you must state the basis for your appeal. For real property tax cases, the ROH Section 8-12.3 specifies four grounds for appeal.*

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<sup>2</sup> City of Denver public service message regarding valuations: <https://www.youtube.com/watch?v=kP7oz4wvTZ8>

<sup>3</sup> City of Denver annual announcement of 2021 property valuations and general explanation, see: <https://www.denvergov.org/Government/Departments/Department-of-Finance/News/2021/Metro-Denver-Assessors-Announce-2021-Property-Valuations>

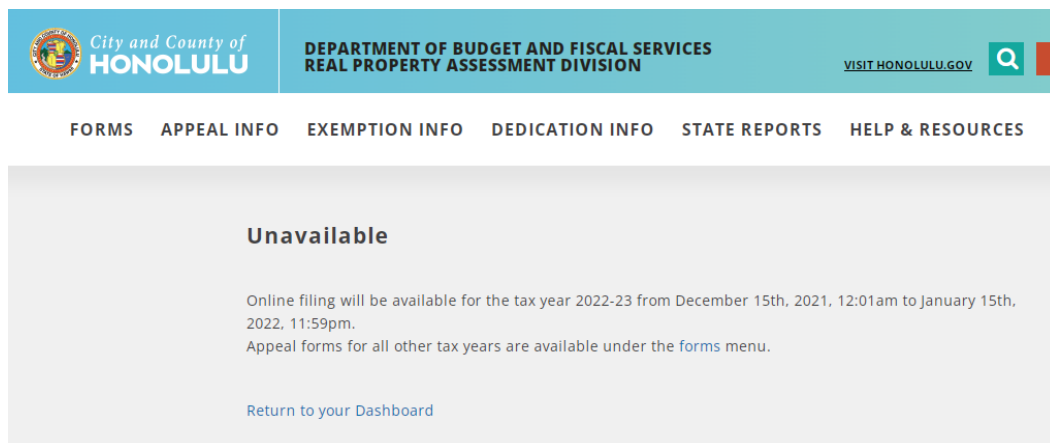
<sup>4</sup> City of Denver, information on property value trends, see: <https://www.denvergov.org/Government/Agencies-Departments-Offices/Department-of-Finance/Our-Divisions/Assessors-Office/Property-Value-Trends>

1. *Assessment of the property exceeds by more than 10 percent of the market value of the property, or*
2. *Lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or*
3. *Denial of an exemption to which the taxpayer is entitled and for which such person has qualified, or*
4. *Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used mentioned in clause 2."*

Absent obtaining legal advice from an attorney, an average taxpayer would likely be unable to accurately decipher what would or would not be a reasonable basis for appeal, based on the description above. In addition, it is very difficult, for example, to appeal under ROH subsection 8-12.3(2) noted above, whether there is a lack of uniformity or inequality that is brought about by illegality of methods used or error in application of the methods, when the methodology itself is unclear to the public.

In terms of equity in the real property tax process, to expect everyday taxpayers to retain or seek legal counsel for understanding how to deal with their annual real property tax assessment is unreasonable and unfair. Similarly, access to simplified information on the appellate review process is limited and cumbersome. When a property owner clicks on the "File an Appeal" link on the RPAD homepage, they are met with the following "unavailable" screen:

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which then redirects them to a large menu of forms, including the "Board of Review Appeal Form"<sup>5</sup> with no additional information or explanation.

<sup>5</sup> [https://www.realpropertyhonolulu.com/media/1805/appeal-form-no-year-2022-11\\_1\\_2021-final.pdf](https://www.realpropertyhonolulu.com/media/1805/appeal-form-no-year-2022-11_1_2021-final.pdf)

#### **IV. LACK OF EQUITY IN VALUATION OF PROPERTIES**

Lastly, the Subcommittee is concerned regarding an apparent inequity in the valuation of leasehold properties. To assess a leasehold property as though they were fee simple, is inequitable for various reasons, including:

- 1) The tax payer is paying for the assessed value of the land, which they do not own; and
- 2) Leaseholds with less than 40 years remaining on the lease start to decline in value and do not have the same market value as fee simple, yet they pay the same property taxes.

As noted by the RPAD on their website: "The City is required by ordinance to assess all real property in its entirety (ROH Section 8-6.3(a)). This means that the City assesses all properties on their fee simple value, unless otherwise mandated by ordinance."

The Subcommittee recognizes that the RPAD believes it is unable to distinguish between the manner in which a property is held (leasehold vs. fee simple), and if that is the case, then the Subcommittee recommends that ROH Section 8-6.3 should be amended to account for the distinction and delineate the difference in value between leasehold and fee simple ownership of real property.