

DEPARTMENT OF BUDGET AND FISCAL SERVICES

Amendment of Chapter 4-5-19
City and County of Honolulu Administrative Rules

November 1, 2024

SUMMARY

1. Title amended.
2. §§ 4-5-19-15 is amended.
3. Chapter 19 is compiled.

CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF BUDGET AND FISCAL SERVICES

SUBTITLE 5

REAL PROPERTY ASSESSMENT DIVISION
BOARD OF REVIEW

CHAPTER 4-5-19

RULES AND REGULATIONS GOVERNING REAL PROPERTY TAX APPEALS

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SUBCHAPTER 1

GENERAL PROVISIONS

§4-5-19-1 Purpose. These rules implement ROH Ch. 8, Art. 12 regarding the practice and procedure for appeals related to real property taxation before the Board of Review of the City and County of Honolulu. [Eff 5/3/2024; ren §3-XX-XX-1 **NOV 29 2024**] (Auth: ROH Article 8-12)
(Imp: ROH Article 8-12)

§4-5-19-2 Definitions. For purposes of these rules, the following definitions apply unless the context clearly indicates or requires a different meaning.

"Appeal" means an appeal of a real property assessment or denial of a real property tax exemption to the board.

"Appellant" means the taxpayer, property owner, or person under contractual obligation to pay a tax assessed against another who appeals to the board.

"Board" means any of the Boards of Review for the City and County of Honolulu established under Section 8-12.6, ROH.

"Chair" and "Vice-Chair" means the board's chairperson and vice-chairperson, respectively.

"Decorum" means behaving with good taste and propriety; etiquette. All persons attending a board hearing will turn off or silence all pagers, mobile phones, radios, and other electronic equipment.

"Dismissal Hearing" means a proceeding to determine only whether an appeal was timely filed, but not the grounds or merits of the appeal.

"Director" means the Director of the Department of Budget and Fiscal Services of the City and County of Honolulu or the Director's designee.

"Docket" means a list of pending cases or appeals

"HRS" refers to the Hawaii Revised Statutes.

"Interactive conference technology" means any form of audio or audio and visual conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between a board, any party, and any representative of a party.

"Notice of assessment" means a written notification from tax authorities of the determined real property class, assessed real property value, exemptions, and dedications of real property for tax purposes.

"Quorum" means three members of the Board constitutes a quorum to do business. A majority of the members is necessary for a Board to take action.

"RPAD" means the Real Property Assessment Division of the Department of Budget and Fiscal Services.

"ROH" refers to the Revised Ordinances of Honolulu 1990, as amended.

"Tax Year" means a twelve-month period, beginning July 1st of a calendar year and ending June 30th of the following calendar year.

[Eff 5/3/2024; ren §3-XX-XX-2 NOV 29 2024] (Auth: ROH Article 8-12) (Imp: ROH Article 8-12)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§4-5-19-3 Board clerk. The Director, or a person designated by the Director, will serve as board clerk and perform clerical duties as directed by the board. [Eff 5/3/2024; ren §3-XX-XX-3 NOV 29 2024] (Auth: ROH Article 8-12) (Imp: ROH Article 8-12)

§4-5-19-4 Attendance. No board member will be absent from a hearing of the board unless the member is sick or unable to attend and has advised the board clerk before the hearing. [Eff 5/3/2024; ren §3-XX-XX-4 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.6, 8-12.7)

SUBCHAPTER 3

APPEALS

§4-5-19-5 Generally. Any taxpayer or owner who may deem the taxpayer or owner aggrieved by an assessment made by the Director or by the Director's refusal to allow any exemption, may appeal from the assessment or from such refusal to the Board of Review or the tax appeal court pursuant to HRS §232-16 on or before January 15 preceding the tax year, as provided in this article. [Eff 5/3/2024; ren §3-XX-XX-5 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.7, 8-12.9)

§4-5-19-6 Appeals by persons under contractual obligations. Whenever any person is under a contractual obligation to pay a tax assessed against another, the person will have the same rights of appeal to the Board of Review and the tax appeal court and the Hawaii Supreme Court, in such person's own name, as if the tax were assessed against such person. The person against whom the tax is assessed will also have a right to appear and be heard on any such application or appeal. [Eff 5/3/2024; ren §3-XX-XX-6 NOV 29 2024] (Auth: ROH §8-12.2) (Imp: ROH §8-12)

§4-5-19-7 Notice of appeal. The notice of appeal must be in writing and any such notice, however informal will be:

- (1) Identifying the assessment involved in the appeal,
- (2) Stating the valuation claimed by the taxpayer, and
- (3) The grounds of objection to the assessment will be sufficient, provided the payment of costs to be deposited by the taxpayer pursuant to ROH §8-12.10, including the payment of costs electronically, must be made on or before the date fixed by law for the taking of the appeal, to perfect the appeal, and for the Board of Review to have jurisdiction to hear the appeal. Upon the necessary information being furnished by the taxpayer to the Director, the

Director will prepare the notice of appeal upon request of the taxpayer or county and any notice so prepared by the Director will be deemed sufficient as to its form. [Eff 5/3/2024; ren §3-XX-XX-7 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.1, 8-12.3, 8-12.9)

§4-5-19-8 Appellant's contact information. Except as otherwise provided by law, all orders, notices and other documents issued by the board in an appeal will be mailed to the appellant at the address listed on the notice of appeal or the last known address; provided that if the appellant gives notice to the board of a change of address or request for electronic notification, the order, notice, or other document will be mailed to the address specified by the appellant. [Eff 5/3/2024; ren §3-XX-XX-8 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.7, 8-12.9)

§4-5-19-9 Appearance and practice before the board. To the greatest extent practicable, hearings before the board will be informal. Unless otherwise provided by law or by order of the board, the rules of court, rules of civil procedure, and rules of evidence will not apply to proceedings before the board. [Eff 5/3/2024; ren §3-XX-XX-9 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.7, 8-12.9)

§4-5-19-10 Representatives. (a) The following natural persons may represent an appellant before the board in an appeal; provided a written authorization signed by the appellant is filed with the board:

- (1) Attorneys duly authorized or licensed to practice by the Supreme Court of the State of Hawaii;
- (2) Accountants licensed under the laws of the State of Hawaii;
- (3) Real estate appraisers licensed under the laws of the State of Hawaii;
- (4) Real estate brokers licensed under the laws of the State of Hawaii;
- (5) If the appellant is an individual firm, association, partnership, limited liability company,

or corporation, an officer, Director, partner, limited liability company member, or full-time employee of appellant; and

(6) Family members of the appellant;

(b) The board may grant a request by an appellant to allow any person not listed in subsection (a) to represent the appellant in the appeal. The request will be in writing, signed by the appellant, and will include an explanation of how the person is qualified to represent the appellant.

(c) Except with the Director's written permission, former employees of the Department of Budget and Fiscal Services or Department of the Corporation Counsel may not appear as witnesses on behalf of the appellant in proceedings involving matters investigated or passed upon while in such employment.

[Eff 5/3/2024; ren §3-XX-XX-10 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.7, 8-12.9)

§4-5-19-11 Submission of appraisals as evidence.

(a) Any real estate appraisal submitted to the board as evidence must be performed by a licensed or certified appraiser.

(b) If an appellant intends to submit written or oral evidence from an appraiser as to the value of the property as of a specific date, the appellant must provide proof that the appraiser is licensed in the State of Hawaii.

(c) An appellant who provides an opinion of the value of their property is not subject to Chapter 466K, Hawaii Revised Statutes, or Title 16-114, Hawaii Administrative Rules. [Eff 5/3/2024; ren §3-XX-XX-11 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-12 Filing of appeal. (a) A notice of appeal and deposit of costs will be timely if filed:

(1) By personal delivery to the RPAD office on or before 4:30 p.m. HST on the date fixed by law for the taking of the appeal;

(2) Electronically on the RPAD website on or before 11.59 p.m. HST on the date fixed by law for the taking of the appeal; or

(3) By United States Postal Service if postmarked on or before the date fixed by law for the taking of the appeal.

(b) An appeal of an assessment or refusal to allow an exemption must be made on or before January 15th preceding the tax year. An appeal of an amended notice of assessment must be filed within thirty calendar days from the date of the amended notice of assessment with the deposit of cost. Notwithstanding section ROH §8-1.16, if the deadline to appeal falls on a Saturday, Sunday, or a holiday, the deadline will not be extended.

[Eff 5/3/2024; ren §3-XX-XX-12 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §8-12.1)

§4-5-19-13 Late filing. If a notice of appeal is filed with the board after the deadline to appeal, the board will provide notice to the appellant of a proposed dismissal. A dismissal hearing will be scheduled upon the appellant's request; provided that the board will dismiss the appeal if the notice of appeal was untimely filed. [Eff 5/3/2024; ren §3-XX-XX-13 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.1, 8-12.9)

§4-5-19-14 Failure to appear. The board may dismiss an appeal if the appellant fails to appear at the hearing and has not submitted written testimony. [Eff 5/3/2024; ren §3-XX-XX-14 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-15 Notice of hearing of an appeal. The board will serve the appellant or their authorized representative with written notice of the hearing via regular mail at least twenty-one calendar days prior to the hearing. If an authorized representative files on behalf of the appellant, the notice will be sent to the address provided in the letter of authorization or on the representative's company letterhead. Alternatively, the appellant or their representative may request notice via electronic mail. [Eff 5/3/2024; am and ren §3-XX-XX-15 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-16 Hearing by interactive conference technology. The hearing may be held by interactive conference technology that allows interaction by the participants, including but not limited to, RPAD,

appellant, representatives, and witnesses, and the notice identifies electronic contact information for each participant.

(1) If audio communication is lost during the hearing, it may be recessed at the discretion of the board chair; provided that the hearing may reconvene when at least audio communication is reestablished. If audio-only communication is reestablished, then each speaker will state the speaker's name prior to making remarks.

(2) All parties will have the option to attend hearings either in person or via interactive conference technology.

(3) All participants in the hearing will be responsible for their own equipment, and for ensuring equipment is functioning properly.

(4) If the appellant reestablishes audio-only communication, the appellant must state appellant's name prior to making remarks and will need to verbally consent to relinquish their right to view and/or present visual evidence. If solely audio communication is functional, then the appellant may present evidence in that manner.

(5) The board reserves the right to postpone the hearing should technical difficulties persist.

[Eff 5/3/2024; ren §3-XX-XX-16 NOV 29 2024]
(Auth: HRS §91-9) (Imp: ROH §8-12.7)

§4-5-19-17 Docket. The board will maintain a docket of all appeals and will assign a case number to each appeal. The board will include in the docket the name and address of each person appearing in a representative capacity. [Eff 5/3/2024; ren §3-XX-XX-17 NOV 29 2024]
(Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-18 Consolidation. The board, upon its own motion or upon motion by any party, may order a joint hearing or consolidate two or more appeals that involve substantially the same parties or issues to avoid unnecessary costs or delay.

[Eff 5/3/2024; ren §3-XX-XX-18 NOV 29 2024] (Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-19 Filing of evidence. Unless otherwise ordered by the chair, an appellant seeking to introduce evidence for the board's consideration may file the evidence with the board by delivering a copy through personal delivery, United States Postal Service, or by emailing a Portable Document Format (PDF) concurrently with the filing of the notice of appeal or no later than 4:30 PM HST two business days before the hearing date. Evidence can consist of testimonies, documents, and visual aids. Evidence must be labeled as exhibits A, B, C and so forth. The board reserves the right to postpone the hearing if evidence is filed after 4:30 PM HST two business days prior to the hearing. Additionally, the board may decline to consider evidence introduced for the first time during the hearing. Evidence emailed to city staff is not considered written testimony or documentary evidence unless the appellant has given written notice to have their written testimony or documentary evidence forwarded to the board clerk for the board's consideration. [Eff 5/3/2024; ren §3-XX-XX-19 **NOV 29 2024**] (Auth: ROH §8-12.7) (Imp: ROH §§8-12.1, 8-12.7)

§4-5-19-20 Conduct of hearing; sequence of presentation. Except as otherwise ordered by the chair:

- (1) The appellant will be limited to a ten minute presentation, which may include an opening statement and the submission of oral and written evidence.
- (2) The Director will be limited to a ten minute presentation, which may include an opening statement and the submission of oral and written evidence.
- (3) The appellant may cross examine any witness testifying on behalf of the Director; provided the appellant will be limited to five minutes for cross examination of all witnesses;
- (4) The Director may cross examine any witness testifying on behalf of the appellant; provided the Director will be limited to five minutes for cross examination of all witnesses;
- (5) Either party may submit rebuttal evidence; provided that any presentation of rebuttal evidence will be limited to two minutes;

(6) The board may ask questions to or seek clarification from any party or witness.

(7) The board may grant additional time as may be reasonably necessary for a party to conclude its presentation.

[Eff 5/3/2024; ren §3-XX-XX-20 NOV 29 2024]
(Auth: ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-21 Continuances. Any party desiring a continuance of a hearing must immediately file a written request for a continuance with the board. The request must state in detail the reasons for the continuance. The chair will consider whether the request is promptly and timely filed. For good cause shown, the chair may grant a continuance. The chair may at any time order a continuance on its motion.

[Eff 5/3/2024; ren §3-XX-XX-21 NOV 29 2024] (Auth:
ROH §8-12.7) (Imp: ROH §8-12.7)

§4-5-19-22 Decision. With the exception of questions involving the Constitution or laws of the United States, each board will have the authority to decide all questions of fact and all questions of law necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided that the board will not have the authority to determine or declare an assessment illegal or void. Each board will have the authority to allow or disallow exemptions pursuant to law, whether previously allowed or disallowed by the Director, and to increase or lower any assessment.

The board will file a written decision with the Director within sixty calendar days of the hearing. The decision will state the date it is filed with the Director and will be delivered to the appellant in accordance with Section 8-12.7, ROH. A copy of the decision will be mailed to the appellant's authorized representative, if any. The appellant or authorized representative may request in writing to update mailing address for any appeal related correspondences only. However, this request will not update the address for the mailing of the notice of assessment or billing statements.


[Eff 5/3/2024; ren S3-XX-XX-22 NOV 29 2024
ROH S8-12.7) (Imp: ROH S8-12.7)

] (Auth:

DEPARTMENT OF BUDGET AND FISCAL SERVICES

4. Chapter 4-5-19, City and County of Honolulu Administrative Rules, on the Summary Page dated November 1, 2024 were amended on November 1, 2024, following a public hearing held on September 30, 2024 after public notice was given in the Honolulu Star Advertiser on August 28, 2024.

The amendment of chapter 4-5-19 shall take effect ten days after filing with the Office of the City Clerk.



Andrew T. Kawano, Director
Department of Budget and Fiscal
Services
City and County of Honolulu


APPROVED:



Rick Blangiardi, Mayor
City and County of Honolulu


Dated: November 1, 2024

APPROVED AS TO FORM:



Deputy Corporation Counsel
City and County of Honolulu

FILED:



Glen I. Takahashi
City Clerk
City and County of Honolulu

DEPARTMENT OF BUDGET AND FISCAL SERVICES

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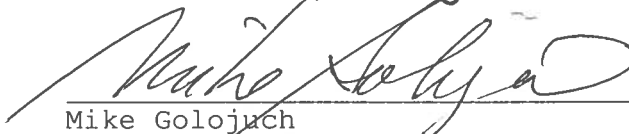
The amendment of chapter 4-5-19 shall take effect ten days after filing with the Office of the City Clerk.



Scott Hayashi
Chair, First Board of Review



Randall Whattoff
Chair, Second Board of Review



Mike Golojuch
Chair, Third Board of Review

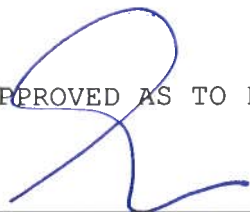
APPROVED:



Rick Blangiardi, Mayor
City and County of Honolulu

Dated: November 1, 2024

APPROVED AS TO FORM:



Deputy Corporation Counsel
City and County of Honolulu

Filed:



Glen I. Takahashi
City Clerk
City and County of Honolulu