

## Small Business Regulatory Review Board

### MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING August 19, 2021

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:02 a.m., with a quorum present, which was open to the public.

**MEMBERS PRESENT:**

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- William Lydgate
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walch

**STAFF: DBEDT**

Dori Palcovich  
Jet'aime Ariola

**Office of the Attorney General**

Alison Kato

### II. APPROVAL OF July 29, 2021 MINUTES

Mr. Lee made a motion to accept the July 29, 2021 meeting minutes, were approved as amended. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

### III. NEW BUSINESS – Before Public Hearing

- A. Discussion and Action on the Small Business Statement after Public Hearing and Proposed Amendments to Section 5A-6.4 of the Kauai County Code, Real Property Tax Classification Rules, promulgated by the County of Kauai Department of Finance

Ms. Reiko Matsuyama, Finance Director at the Department of Finance - County of Kauai, explained that the proposed rules represent an amendment to Kauai's tax classification. The rules are intended to create and ensure equity between entities operating in similar fashions.

Kauai's tax system is based on the "actual use" of a property and so the rules will help define those uses. Taxing on "actual use" was established for the County of Kauai in 2013; subsequently, the County promulgated the original rules in 2015. Presently, the initial need to amend these rules arose from two separate changes in the Kauai County Code. Therefore, the amendments in these rules mirror the County Code's changes.

The first change, which was modified in 2020, relates to home exemption, Section 12-6 (h), where the qualifications under the Homestead Act have been strengthened. The second change relates to the residential investor classification under Section 12-6 (i) where the threshold of the assessed value was reduced from \$2 million to \$1.3 million. This section further denotes how to be excluded from the residential investor classification, which is the third highest tax rate. In addition, other sections throughout the chapter have been clarified and modified.

A public hearing was held via Microsoft TEAMS on August 2, 2021 with no one present to testify. Ms. Matsuyama explained that there has been some notice of opposition and concerns that have not been brought to the department directly. As an example, one of the concerns heard was due to value added products and that if sold on property it will constitute being classified as commercial. There are no changes to someone's tax classification because of this change. As it relates to that specific concern, it is already written in Chapter 5A Section 6.4C that says "importing, selling, refining, or distributing" agricultural products is classified as commercial. It is already written in the law and the department is solidifying the rules to reflect the change.

Mr. Lydgate mentioned that the purview of the board is to address potential small business concerns. With that said, no agricultural stakeholders were notified of the change. He also mentions of the reclassification of commercial and industrial uses that change agricultural uses to commercial and some agricultural uses to industrial. In the farming industry no one knew about the the rule change. There are some concerns that going through a process of communication and transparency will help to bring up some important issues that should be addressed around the tax classifications.

Mr. Yamanaka also adds that recently, they've gone through some tax appeals in Hawaii County, it opened his eyes to the process the assessors go through. He asks that when there are more classifications and comparing use, is the department now going to compare those specific uses to each other or still include ag property in total? The data is already limited. Looking at the data used they're not always comparing apples to apples, and with the limited data that is on hand are you really following your own guidelines to do assessments and is it harder?

Mr. Mike Hubbard, Real Property Tax Manager at the Department of Finance – County of Kauai explained the rules help to point to a place in writing. More than half of the assessor's job is to find the market of the property the other half is to classify it accordingly. With the data that's out there from the planning department and special use permits, we have an understanding of what's going on on most of the properties. Trying to be specific with the definitions will help the office.

Chair Cundiff reiterates the purview of the board. He acknowledges Mr. Lydgate recommendation of any future changes or new rules on the front end that the agencies include the stakeholders or those who might be impacted to make sure they are engaged. He also mentions Mr. Yamanaka's scenario on value added products and encourages business to take risks and look at different ways to generate revenue and income. What level of tax is an incentive for business to take a risk and try to establish value added products as part of their portfolio?

Being that the public hearing was held, sending the rules back to public hearing is something that the board cannot require the Kauai County to do. Ms. Reiko Matsuyama suggests sending a revised rule that have all the changes except sections C, D and E and leave that status quo and start the process over again to do sections C, D and E. Chair Robert Cundiff does not think that it is necessary from the prospective in that the Kauai County did everything to follow the process that is required.

Mr. Lydgate motioned to move the rules to the Mayor for adoption with a recommendation to conduct an informational/forum meeting with stakeholders and those impacted to discuss. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

#### **IV. ADMINISTRATIVE MATTERS**

##### **A. Update on the Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS**

###### **1. Update on Board's Fiscal Year 2022 Budget**

Chair Cundiff confirms that the budget is established at \$10,800.00 which is the standard budget minus the 10% hold back. Under the current environment, the board will continue with Zoom call meetings that will save the SBRRB money moving forward.

###### **2. Discussion and Action on Creating an Informal Investigative Task Force for the Purpose of Developing and Designing Phase II of the Board's Website to include Content and Features in accordance with Section 92-2.5(b), HRS**

Chair Cundiff notes that DBEDT Director Mike McCartney is engaged and onboard with what the board is trying to accomplish. He expressed support over moving into Phase II on development of the website.

Mr. Ritchie gives some background of Phase II which is going to look at a more focused approach to the website and the small business community. It will allow businesses, associations, and trade groups to sign up for very specific notices regarding certain departments or counties. Phase II will allow interactivity to engage more effectively with the small business community.

Chair Cundiff adds that the SBRRB was able to revamp the website a couple years ago with Phase I. The next phase will allow more interaction and intelligence around how the website acts. The intent of Phase II would be using technology to monitor rules that are being introduced and what organizations or industries it may impact and have a more proactive notification sent out. It will be a next level of intelligence.

Mr. Ritchie expressed that he is happy to sit on the Phase II committee. He would like to work with Chair Cundiff and the DBEDT staff to investigate from a technological view on how to include costs, etc. Chair Cundiff suggests looking at the SBRRB Agenda mailing list and update if needed. It is a proactive way to continue to engage with stakeholders until the

SBRRB website can automatically do so. Based on the Sunshine law, there can be two or more board members on this task force if it is fewer members than quorum.

Chair Cundiff moves that the task force will include DBEDT staff Dori Palcovich and Jet'aime Ariola, Chair Cundiff and board member Mark Ritchie. The action will include the authorization of the board to proceed to gather information around designing Phase II and to engage with Hawaii Informational Consortium (HIC). Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

**V. NEXT MEETING** - Thursday, September 16, 2021 at 10:00 a.m.

**VI. ADJOURNMENT** – Mr. Yamanaka made a motion to adjourn the meeting and William Lydgate seconded the motion; the meeting adjourned at 11:27 a.m.

DRAFT