

DEPARTMENT OF FINANCE  
COUNTY OF KAUAI  
REAL PROPERTY TAXATION

WASTELAND DEVELOPMENT CLASSIFICATION  
PROPERTY ASSESSMENT

RULES AND REGULATIONS OF THE DIRECTOR  
OF FINANCE RELATING TO LAND AS WASTELAND  
DEVELOPMENT PROPERTY UNDER SECTIONS  
5-10.1 TO 5-10.8, REVISED CODE OF  
ORDINANCES OF THE COUNTY OF KAUAI

SECTION RP-4.1 Purpose of rules. These rules and regulations are intended to clarify and implement the provisions of Sections 5-10.1 to 5-10.8, Revised Code of Ordinances of the County of Kauai, herein referred to as "RCO", relating to the development of land classified as wasteland development property.

SECTION RP-4.2 Definitions. (a) As used in these rules and regulations:

- (1) The term "director" shall mean the director of finance or his designee.
- (2) The term "owner" shall include the person or persons owning the fee or any person leasing the real property of another under a lease having a stated term of not less than thirty years.
- (3) The term "wasteland" means land which is incapable of producing materials or services of value in its present existing state or natural state because it is incapable of economic use in the immediate foreseeable future. It includes lands in which suitability of use is undetermined or cannot be clearly established, such as barren lava flows, barren deserts, barren lands, eroded bedrock, pali lands and mountain peaks. It also includes natural waterways, streams, stream beds, rivers, gulches, natural ponds, natural lakes and swamplands. It shall not include areas set aside as preserves or reserves of our natural resources such as forest, watershed, flood plains, game, scientific and any other areas set aside as conservation resources. Wasteland shall not include any land which is more suitable for a higher use or can be classified to any higher use.

(b) Use of gender or number. Words importing the singular number may extend and be applied to several persons or things; words importing the plural may include the singular; and words importing the masculine gender may be applied to females.

SECTION RP-4.3 Eligibility. (a) Any taxable land shall be eligible for classification as wasteland development property if:

- (1) It is not less than 25 acres in area;
- (2) It is "wasteland" as defined herein;
- (3) It has, if under lease, an unexpired term of not less than thirty years.

(b) An owner of classified wasteland development property may further apply for similar classification of additional wastelands owned by him of not less than 25 acres or larger.

SECTION RP-4.4 Filing of application. (a) The owner of any taxable land may apply to the director of finance for classification of his land as wasteland development property and shall on a form prescribed by the director state the following information:

- (1) A description of the property showing the physical conditions;
- (2) The specific area of land to be developed on a tax map or appropriate facsimile;
- (3) The use to which the land is intended;
- (4) The manner in which the land will be developed;
- (5) That all persons having any interest in or holding any encumbrance upon the subject property have joined in making the application and that all of them will comply with the laws and regulations relating to the use, building requirements and development of the real property;
- (6) Any other information as the director may require as being pertinent to the application.

(b) Application forms, required to be prepared and filed by the owner, shall be obtained from and filed on or before September 1, of the year preceding the tax year for which classification is to commence.

SECTION RP-4.5 Review and process of application. (a) The owner of any taxable land may apply to the director of finance for classification of his land as wasteland development property and shall on a form prescribed by the director state the following information:

- (1) A description of the property showing the physical conditions;
- (2) The specific area of land to be developed on a tax map or appropriate facsimile;
- (3) The use to which the land is intended;
- (4) The manner in which the land will be developed;
- (5) That all persons having any interest in or holding any encumbrance upon the subject property have joined in making the application and that all of them will comply with the laws and regulations relating to the use, building requirements and development of the real property;
- (6) Any other information as the director may require as being pertinent to the application.

(b) Application forms, required to be prepared and filed by the owner, shall be obtained from and filed on or before September 1 of the year preceding the tax year for which classification is to commence.

SECTION RP-4.5 Review and process of application. (a) The director shall render a finding of fact as to:

- (1) The eligibility of such land as wasteland development property prescribed in section RP-4.3 of these rules and regulations;
- (2) Whether it is suitable for the intended use and can be developed in the manner specified by the owner;
- (3) Whether such development will add to the development of the economy of the State;

- (4) Whether such development will broaden the tax base of the State.

(b) Such determination shall be based on consultation with any Federal, State and/or County Agency, and/or any other qualified and recognized horticulturists, agriculturists, planners, and/or economists on matters pertaining to soils, climate, land use trends, watershed values, present use of surrounding similar lands and other factors as may be appropriate.

(c) If the director finds that the land is eligible for classification as wasteland development property, that it is suitable for the intended use and can be developed in the manner specified by the owner, that such development will add to the economy of the State, and that it will broaden the tax base of the State, he shall classify the land as wasteland development property and so notify the owner in writing within four months after the filing deadline of the application or by December 15.

(d) If the director finds it otherwise for any one of the above criteria, he shall disapprove the application and so notify the owner in writing stating the reasons therefor within four months after the filing deadline of the application or by December 15. The owner may appeal any disapproved application as in the case of an appeal from an assessment.

#### SECTION RP-4.6 Wasteland development and maintenance.

(a) Within one year following the approval of the application, the owner shall develop and maintain at least a portion of his land as specified in his application and as approved by the director, provided that such area shall not be less than five acres or one-fifth of the land specified in the application, whichever is larger.

(b) Each year subsequent to the first year of development, the owner shall develop and maintain at least an additional five acres or one-fifth of the subject land, whichever is larger, until such time or within five years when all the land classified as wasteland development property is developed.

(c) The owner shall notify the director of any accelerated completion, or of any delay in the development, and set forth reasons for the delay.

SECTION RP-4.7 Special tax assessment. (a) Any land classified as wasteland development property by the director shall be, for a period of five tax years, assessed for real property tax purposes at its value as wasteland. However, for the record and in the event of retroactive assessment, the director shall also annually record and appropriately post the highest and best use assessed property values.

- (1) The five-year period shall commence July 1 of the tax year following the approval of the application on the basis of the wasteland assessment value determined on the assessment date January 1.

#### SECTION RP-4.8 Declassification and retroactive assessment.

(a) The director may declassify any land classified as wasteland development property thirty days after notification to the owner of noncompliance of any law, ordinance, rule or regulation applicable to said land. Upon declassification, the director shall cancel the special tax assessment retroactive to the date that the property qualified for special tax assessment and the difference, between the real property taxes that would have become due and payable but for such classification for all the tax years the land was classified as wasteland development property and the real property taxes paid by the owner during such period, shall become imme-

diately due and payable together with a five percent per annum penalty from the respective dates that such additional tax would otherwise have been due.

(b) If the development is completed ahead of schedule, but only a portion is withdrawn and put to a use other than that specified by the plan and said portion is found to be in variance with the development, only said portion shall be subject to declassification and retroactive assessment.

SECTION RP-4.9. Appeal. Any owner aggrieved by the disapproval of the wasteland classification or the declassification and the imposition of the additional assessment for any year may appeal from such disapproval or additional assessment in the manner provided in the case of real property tax appeals. Appeals shall be governed by the appropriate sections of Chapter 5, RCO, and may be taken to the board of review or be taken directly to the tax appeal court without appealing to the board of review.

The Procedural Rules for the Implementation of Section 5-10.1 to 5-10.8, RCO, Relating to Wasteland Development Classification Property Assessment Use were adopted on May 26, 1981 following a public hearing held on May 18, 1981, after public notice was given in The Garden Island Newspaper on April 24, 1981.

These rules shall take effect ten days after filing with the Office of the County Clerk, County of Kauai.

Eduardo E. Malapit  
MAYOR, County of Kauai  
DATE: 6/3/81

APPROVED AS TO FORM:

Mary R. Munro Jatius 1023  
COUNTY ATTORNEY COUNTY CLERK

Filed June 3, 1981