

Kaua'i County Code[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[Title III TAXATION AND FINANCIAL ADMINISTRATION](#)[Chapter 5A REAL PROPERTY TAX](#)**Article 12. Appeals**

Sec. 5A-12.1 Appeals.

Any owner who may deem him or herself 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 or the Tax Appeal Court, on or before December 31st preceding the tax year, as provided in this Article. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the owner in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the owner appealed is adjusted to one hundred percent (100%) fair market value; provided, that such evidence shall not in any way affect the right of the owner to any severance damages to which he or she may be entitled. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987; Ord. No. 915, November 16, 2011; Ord. No. 920, December 14, 2011)

Sec. 5A-12.2 Appeals by Persons Under Contractual Obligations.

Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the Board and the Tax Appeal Court and the Supreme Court, in his or her own name, as if the tax were assessed against him or her. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal. (Ord. No. 394, July 1, 1981)

Sec. 5A-12.3 Grounds of Appeal, Real Property Taxes.

No owner shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown:

- (a) Assessment of the property exceeds by more than fifteen percent (15%) the assessment of market value used by the Director as the real property tax base, or
- (b) 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
- (c) Denial of an exemption to which the owner is entitled and for which he or she has qualified, or
- (d) 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 County (in addition to the ground of illegality of the methods used, mentioned in Subsection (b) of this Section). (Ord. No. 394, July 1, 1981; Ord. No. 420, January 1, 1983; Ord. No. 527, December 9, 1987; Ord. No. 920, December 14, 2011)

Sec. 5A-12.4 Second Appeal.

In every case in which the owner appeals a real property tax assessment to the Board or to the Tax Appeal Court and there is pending an appeal of the assessment, the owner shall not be required to file a notice of the

second appeal; provided the first appeal has not been decided prior to December 31st preceding the tax year of the second appeal; and provided further the Director gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987; Ord. No. 915, November 16, 2011; Ord. No. 920, December 14, 2011)

Sec. 5A-12.5 Small Claims.

Any protesting owner who would incur a total tax liability, not including penalties and interest, of less than one thousand dollars (\$1,000.00) by reason of the protested assessment or payment in question, may elect to employ the small claims procedures of the Tax Appeal Court as set out in Section 232-5, H.R.S. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987)

Sec. 5A-12.6 Appointment, Removal, Compensation.

There is created a Board of Review which shall consist of five (5) members who shall be citizens of the State and residents of the County, shall have resided at the time of appointment for at least three (3) years in the State, and shall be appointed by the Mayor as provided by Charter. A chair and vice-chair shall be elected annually by members from the membership. The vice-chair shall serve as the chair of the Board during the temporary absence from the County, illness, or disqualification of the chair. Any vacancy in the Board shall be filled for the unexpired term. Each member shall receive and be paid out of the treasury compensation for services for each day of attendance which shall include traveling and other necessary expenses incurred in the performance of official duties. No officer or employee of the County shall be eligible for appointment to any such board. (Ord. No. 394, July 1, 1981)

Sec. 5A-12.7 Board of Review; Duties, Powers, Procedure Before.

- (a) The Board of Review shall hear informally all disputes between the Assessor and any owner in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by the owner shall be conclusive evidence of the existence of a dispute.
- (b) The Board shall hold public meetings at some central location in the County commencing not later than January 15th of each year and shall hear, as speedily as possible, all appeals presented for each year. The Board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the owner or the County in the notice of appeal; provided, that the Board shall not have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the Director and to increase or lower any assessments.
- (c) The Board shall base its decision on the evidence before it, and, as provided in Sec. 5A-1.17, the assessment made by the Assessor shall be deemed prima facie correct. Assessments for the same year upon other similar property situated in the County shall be received in evidence upon the hearing. In increasing or lowering any real property assessment, the Board shall be governed by this Chapter. The Board shall file with the Assessor concerned its decision in writing on each appeal decided by it, and a certified copy thereof shall be furnished by the Assessor forthwith to the owner concerned by delivery thereof to him or her, or by mailing the copy addressed to his or her last known place of residence or business.
- (d) Upon completion of its review of the property tax appeals for the current year, the Board shall compile and submit to the Mayor and shall file with the Assessor for the use of the public, a copy of a report covering such features of its work as, in the opinion of the Board, will be useful in attaining the objectives set forth in this Chapter. In this report the Board shall additionally note instances in which, in the opinion of the Board, the Assessor, in the application of the methods selected by him or her, erred as to a particular property or particular properties not brought before the Board by any appeal, whether the error is deemed to have been by way of underassessment or overassessment. Before commencing this phase of its work, the Board shall publish, during the first week of September, a notice specifying a period of at least ten (10) days within which complaints may be filed by any owner. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the owner and the grounds of objection to the assessment, and shall be filed with the Assessor who shall transmit the same to the Board. Not earlier than one (1) week after the close of the period allowed for

filing complaints, the Board shall hear the same, after first giving reasonable notice of the hearing to all interested persons and the Assessor. Like notice and hearing shall be given in order for the Board to include in its report any other property not brought before it by an appeal. The Board may proceed by districts designated by their tax map designation, and may, from time to time, publish the notice above provided for as the work proceeds by districts.

(e) The Assessor, in the making of assessments for the succeeding year, shall give due consideration to the report of the Board made pursuant to Subsection (d) of this Section.

(f) The Board and each member thereof, in addition to all other powers, shall also have the power to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the Board. It may request the Tax Appeal Court, as prescribed in Section 232-7, H.R.S., to order the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the Board.

(g) The Board shall promulgate rules and regulations as provided in Chapter 91, H.R.S., for its hearings. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987; Ord. No. 920, December 14, 2011)

Sec. 5A-12.8 Tax Appeal Court.

Any owner may appeal any decision of the Director or the Board to the Tax Appeal Court as provided in Sections 232-8 to 232-14, 232-16 to 232-18, H.R.S., or to the State Supreme Court as provided in Sections 232-19 to 232-21, H.R.S., except when an appeal is filed with the district court for small claims. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987)

Sec. 5A-12.9 Appeal to Board of Review.

(a) The notice of appeal must be lodged with the Assessor on or before the date fixed by law for the taking of the appeal. An appeal to the Board of Review shall be deemed to have been taken in time if the notice thereof shall have been deposited in the mail, postage prepaid properly addressed to the Assessor, on or before such date.

(b) The notice of appeal must be in writing and any such notice, however informal it may be, identifying the assessment involved in the appeal, stating the valuation claimed by the owner and the grounds of objection to the assessment shall be sufficient. Upon the necessary information being furnished by the owner to the Assessor, the Assessor shall prepare the notice of appeal upon request of the owner and any notice so prepared by the Assessor shall be deemed sufficient as to its form.

(c) The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary for the determination of the objections raised by the owner in the notice of appeal. Any objection involving the Constitution or laws of the United States may be included by the owner in the notice of appeal and in such case the objections may be heard and determined by the Tax Appeal Court on appeal from a decision of the Board of Review; but this provision shall not be construed to confer upon the Board of Review the power to hear or determine such objections. Any notice of appeal may be amended at any time prior to the Board's decision; provided the amendment does not substantially change the dispute or lower the valuation claimed. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987)

Sec. 5A-12.10 Costs; Deposit for an Appeal.

(a) The cost to be deposited on appeal to the Board shall be twenty-five dollars (\$25.00) for each real

property tax appeal by the owner-occupant and seventy-five dollars (\$75.00) for each real property tax appeal whereby the owner does not occupy the real property.

(b) Any costs for appeals filed before the Tax Appeal Court or the State Supreme Court shall be as provided in Sections 232-22 and 232-23, H.R.S. (Ord. No. 394, July 1, 1981; Ord. No. 526, December 9, 1987; Ord. No. 527, December 9, 1987; Ord. No. 709, August 30, 1996; Ord. No. 920, December 14, 2011)

Sec. 5A-12.11 Cost, Taxation.

In the event of an appeal by the owner to the Board of Review, if the appeal is compromised, or is sustained as to fifty percent (50%) or more of the valuation in dispute, the costs deposited shall be returned to the appellant.

Otherwise the entire amount of costs deposited shall be retained by the County. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987)

Sec. 5A-12.12 Taxes Paid Pending Appeal.

(a) The tax paid upon the amount of any assessment, actually in dispute and in excess of that admitted by the owner, and covered by an appeal to the district court for small claims or the Tax Appeal Court duly taken, shall, pending the final determination of the appeal, be paid by the Director into the "litigated claims account." If the final determination is in whole or in part in favor of the appealing owner, the Director shall repay to him or her out of the account, or if investment of the account should result in a deficit therein, out of the general fund of the County, the amount of the tax paid upon the amount held by the Court to have been excessive or nontaxable, together with a proportionate share of interest earned by the litigated claims account from the date of each payment into the litigated claims account, the interest to be paid from the general fund of the County. The balance, if any, of the payment made by the appealing owner, or the whole of the payment, in case the decision is wholly in favor of the Assessor, shall, upon the final determination become a realization of the general fund.

(b) In a case of an appeal to a Board of Review, the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the owner shall, during the pendency of the appeal and until and unless an appeal is taken to the Tax Appeal Court, be held by the Director in a special deposit. In the event of final determination of the appeal in the Board of Review, the Director shall repay to the appealing owner out of the deposit the amount of the tax paid upon the amount held by the Board to have been excessive or nontaxable plus a proportionate share of the interest earned while said funds were held in the special deposit. The balance, if any, or the whole of the deposit, in case the decision is wholly in favor of the Assessor, shall become a realization of the general fund. (Ord. No. 394, July 1, 1981; Ord. No. 525, December 9, 1987; Ord. No. 527, December 9, 1987)

Sec. 5A-12.13 Amendment of Assessment List to Conform to Decision.

The Director shall alter or amend the assessment and the assessment list in conformity with the decision of judgment of the last board or court to which an appeal may have been taken. (Ord. No. 394, July 1, 1981; Ord. No. 527, December 9, 1987)

Sec. 5A-12.14 Appeals of Time Share Assessments.

All rights and privileges afforded property owners under Article 12 of this Chapter with respect to contesting or appealing assessments shall apply both to the time share plan manager and to any person owning a time share interest. Assessments which may be appealed from include, but are not limited to, assessments derived from

resales of time share interests. (Ord. No. 713, November 22, 1996)

View the [mobile version](#).