

TAX REVIEW COMMISSION

MINUTES FOR THE TWENTY FIRST MEETING OF THE
TAX REVIEW COMMISSION
HELD AT 830 PUNCHBOWL STREET
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS ROOM 310
IN THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAII, ON THURSDAY, FEBRUARY 8, 2018 AT 1:30 PM

Members Present:

Colleen Takamura, Chair
Vaughn Cook, Vice-Chair
John Knox
Nalani Kaina
Raymond Blouin
Dawn Lippert
Billy Pieper

Members Absent:

None

Staff:

Seth Colby, Titin Sakata and Noe Kaawa

Others:

Randall Nishiyama, Department of the Attorney General
Donald Rousslang, Department of Taxation
Ashley Kurizu, Senate Ways and Means
Chuck Narikiya, Office of the Auditor
Peter Fritz

CALL TO ORDER:

Chair Takamura called the meeting to order at 1:30 PM.

APPROVAL OF MINUTES:

Chair Takamura said the first order of business was the approval of the minutes from the January 18, 2018 meeting. She asked if there was any motion to amend or approve the minutes.

Commissioner Cook moved the motion to approve the minutes from January 18, 2018 and Commissioner Pieper seconded the motion. The motion carried unanimously.

WRITTEN COMMENTS ON HAWAII TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:

There were no written comments to the TRC.

PUBLIC COMMENTS ON HAWAII TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:

Mr. Fritz said he had one point on compliance with the notice requirements for meetings. The statute required that when the notice was filed with the Lieutenant Governor, you're supposed to mail a copy to someone and that wasn't happening, and was coming out at least a day or so late. The compliance of the requirements of 92-7(e) said no later than the timely agenda's filed under subsection (b) and that's not happening. He asked if Mr. Nishiyama disagreed with that.

Mr. Nishiyama said yes he did.

Mr. Fritz asked why.

Mr. Nishiyama said he believed the notice to the Lieutenant Governor's Office was sufficient.

Mr. Fritz said no, the statute specifically said since he requested it by mail, it was supposed to be mailed when it was filed with the Lieutenant Governor. He said he checked that out with OIP.

Mr. Nishiyama said okay and if he could supply that opinion to him.

Mr. Fritz said the statute was pretty clear and it said under subsection (b) which was when filing with the Lieutenant Governor it was supposed to be mailed. He said he has had problems receiving timely mailed notices and previously requested that they be sent to him by certified mail, and thought about asking for an affidavit of mailing.

Mr. Nishiyama said certified mail was not necessary.

Mr. Fritz said fine. He would ask for an affidavit of mailing because he was not getting them in the regular course of mail that he normally got from everybody else, but the fact was in that particular case, he received January 18 notice that day and couldn't understand that and would be taking that up with the post office. The notice for today was filed on the first but run through the postage meter till the second and didn't necessarily mean it was mailed that same day.

Chair Takamura said that was something for DoTAX and the TRC doesn't control the posting; he could bring it up with DoTAX.

Mr. Fritz said they just provide administrative services to the TRC and providing those administrative services to the TRC doesn't alleviate their legal obligations by the statute, and since Mr. Nishiyama would like an opinion from OIP, he was going to request it. But the fact was blatantly clear, "it shall be mailed at the time it was filed with the Lieutenant Governor. He said the statute would change 7/1/2018, but this has always been a problem where he doesn't get the notices until a day or so sometime before the meeting and that was not the way he got the rest of his mail. The statute said when it was filed with the Lieutenant Governor, it was supposed to be mailed that day, not the next day or the day after that. He said you can't dispute the language of the statute Mr. Nishiyama. It said mail when it's filed with the Lieutenant Governor.

Mr. Nishiyama said if he chose to challenge, he was free to challenge.

Mr. Fritz said he has done it before and was right.

Commissioner Blouin said he wanted to add from what he understood was the gentleman in the audience had received notification of the TRC meetings in the past, however, he mentioned that they had arrived late. He said on record, emphasized that it appears that the system was working and delivery of that notice was not dependent on the TRC or administration, but dependent on the USPS which he said he would take that concern to the post office. He said the only question that appeared to be pending was whether or not that particular meeting announcement was mailed to him and as it was mentioned during the course of the conversation, it may not have been necessary to mail that.

Chair Takamura said the notice for the meeting was mailed to him.

Commissioner asked if it was possible that the USPS was also in receipt of that mailing and wasn't delivered.

Commissioner Kaina said she wanted it clarified for their notes and files since Mr. Nishiyama had a dialog with Mr. Fritz, what the rule was and how the TRC complied.

Mr. Nishiyama said the rule was that you had to post the notice of meeting with the Lieutenant Governor's Office six days before the meeting occurred. He said he didn't know specifically what the requirement was for mailing. He said he would check on that. He said if Mr. Fritz had a problem, he had received notice of the meeting by his very presence there at the meeting. If he chose to challenge the actions of the TRC for having the meeting, he had two months in which to file a challenge in Circuit Court.

Mr. Blouin said just to emphasize that by presence, he was recognizing the fact the TRC was having a meeting that day. He said neither the TRC nor himself had seen the administration ever have the intent to not follow any kind of procedures in regards to notices of the meeting.

Chair Takamura asked if there were any other comments.

Dr. Colby said it was a pleasure working with the TRC and wished them the best of luck.

DISCUSSION AND APPROPRIATE ACTION RELATING TO THE TAX REVIEW COMMISSION'S REPORT AND ITS EVALUATION OF THE STATE'S TAX STRUCTURE AND RECOMMENDATION ON TAX REVENUES AND POLICY:

Chair Takamura said Dr. Rousslang sent a note with the changes to the draft from the previous meeting and asked if there were any comments on the report.

Commissioner Blouin motioned to approve the draft TRC Report and was seconded by Commissioner Pieper.

Chair Takamura said it has been motioned and seconded to approve the TRC Report and open the floor to discussion.

Commissioner Kaina said there was one typo under the List of Appendices, Appendix D, change word "Povery" to "Poverty".

Chair Takamura said it has been motioned and seconded that they approve the report for the 2015-2017 TRC. The motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 1:45 P.M.