

RULES AND REGULATIONS OF THE
COUNTY TRANSPORTATION COMMISSION
COUNTY OF HAWAII
STATE OF HAWAII

RULES OF PRACTICE AND PROCEDURE

These rules govern procedure before the County Transportation Commission of the County of Hawaii Chapter 91, Hawaii Revised Statutes, and the County Charter. They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding.

RULE 1. METHOD WHEREBY PUBLIC MAY OBTAIN INFORMATION.

The public may obtain information as to matters within the jurisdiction of the County Transportation Commission of the County of Hawaii, hereinafter referred to as the "Commission" by inquiring at:

- (a) The office of the Lieutenant Governor of the State of Hawaii, where there are on file all rules of the Commission;
- (b) The office of the Clerk of the County of Hawaii, where there are on file all rules of the Commission; or
- (c) The office of the Director of Finance of the County of Hawaii, where all rules, orders, or opinions of the Board are on file.

Such inquiry may be made in person at said office during business hours, or by submitting a request for information in writing to the Commission.

RULE 2. PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES.

(a) Any person may petition the Commission requesting the adoption, amendment, or repeal of any rule of the Commission.

(b) The petition shall include:

- (1) The name, address, and telephone number of the petitioner.
- (2) A statement of the nature of the petitioner's interest.
- (3) A draft of the substance of the proposed rule or amendment or a designation of the provision sought to be repealed.
- (4) An explicit statement of the reason in support of the proposed rule, amendment, or repeal.
- (5) Any other information relevant to the petition.
- (6) The signature of each petitioner.

(c) The Commission may reject any petition which does not conform to the foregoing requirements and the format illustrated in appendix A.

(d) The Commission shall within thirty (30) days after the submission of the petition either deny the petition, in writing, stating its reasons for such denial, or initiate proceeding in accordance with Section 91-3, Hawaii Revised Statutes, for the adoption, amendment, or repeal of the rule, as the case may be.

RULE 3. DECLARATORY RULING BY COMMISSION.

(a) Any interested person may petition the Commission for a declaratory order as to the applicability of any statute or ordinance administered or enforced by the Commission or of any rule or order of the Commission.

(b) The petition shall contain:

- (1) The name, address, and telephone number of the petitioner.
- (2) A statement of the nature of the petitioner's interest.
- (3) A designation of the specific provision, rule or order in question.
- (4) A complete statement of facts.
- (5) A statement of the position or contention of the petitioner.
- (6) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.
- (7) The signature of each petitioner.

(c) The Commission may reject any petition which does not conform to the foregoing requirements and the format illustrated in Appendix B.

(d) The Commission may for good cause refuse to issue a declaratory ruling. Without limiting the generality of the foregoing the Commission may refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future.
- (2) The petitioner's interest is not of the type which would give him standing to maintain an action if he were to seek judicial relief.
- (3) The issuance of the declaratory ruling may adversely affect the interests of the County, the commission, or any of its officers or employees in any litigation which is pending or may reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the Commission.

(e) Where any question of law is involved, the Commission may refer the matter to the Corporation Counsel. The Commission may also obtain the assistance of other agencies, where necessary or desirable.

(f) Upon disposition of his petition, the petitioners shall be informed in writing thereof by the Commission.

(g) Orders disposing of petitions shall have the same status as other orders of the Commission. Orders shall be applicable only to the fact situation alleged in the petition or set forth in the order. They shall not be applicable to different fact situations or where additional facts not considered in the order exist.

RULE 4. RULES OF PRACTICE.

Except as otherwise provided by law, in any proceeding involving the adoption of any rule authorized by law, the amendment or repeal of any rule, the issuance of a certificate of public convenience and necessity, the revocation of a certificate, the establishment of routes, schedules, rates, standards of safety, and insurance requirements, or the making of any adjudication by the Commission, which is required to be made after an opportunity for a hearing, the following shall apply:

(a) Rules for Commission Meeting.

(1) Time and Place of Regular Meetings.

The Commission shall hold regular meetings at 1:00 p.m. on the first Thursday of March, June, September, and December in the County Building, Hilo, Hawaii, or provided, that the date and place of any regular meeting may be changed by motion duly adopted at a regular or special meeting at least one week prior to the rescheduled meeting date.

(2) Quorum.

Five (5) members shall constitute a quorum.

(b) Application for Certificates of Public Convenience and Necessity.

Applications for issuance of certificate of public convenience and necessity shall be in writing addressed to the Commission and shall contain the following information:

- (1) The exact legal name of each applicant, location of its principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the state under the laws of which such applicant was created or organized and name of its officers and directors.
- (2) Type of service proposed, narrative description of the proposed service, and geographic area to be served including schedules, rates, and routes.
- (3) Statement indicating times of operation, frequency of proposed service, and names of operators to be employed.
- (4) Description and number of vehicles to be used in the proposed service.
- (5) A statement that prior to use of any vehicle, applicant will meet applicable safety, insurance, and license requirements.
- (6) A statement of financial ability to render the proposed service, accompanied by a financial statement of the applicant's present financial condition.
- (7) Facts showing that the proposed operation is or will be required by the present or future public convenience and necessity or public interest.
- (8) Signature of applicant duly notarized.

(c) Adoption, Amendment or Repeal of Rule.

- (1) All persons who have made a timely written request of the Commission for advance notice of its rule-making proceedings shall be notified in writing of the proceedings and of their opportunity to be heard at the hearing thereon. Such notice shall conform to the requirements of Section 91-3 (a) Hawaii Revised Statutes, and shall be sent at least twenty (20) calendar days before the date of the hearing. Such notice shall be in addition to any notice required by law to be published in a newspaper.
- (2) All interested person shall be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing or by mail.

(d) Application for Revision of Routes, Schedules and Rates.
Application for extension, contraction or modification of approved routes, expansion or reduction of established schedules, increase or decrease of rates, fares or charges in effect must be in writing and must contain full justification therefor.

(e) Application for Certificate of Public Convenience and Necessity, Revocation of Certificates, Adoption, Amendment or Repeal of Rules, Establishment or Revision of Routes, Schedule, Rates, Standard of Safety and Insurance Requirements, or Other Adjudication.

- (1) The applicant or petitioner shall be notified in writing of the hearing and of his opportunity to be heard thereat. Such notice shall conform to the requirements of Section 91-9 (6), Hawaii Revised Statutes, and shall be sent not less than ten (10) calendar days before the date of the hearing. Such notice shall be in addition to any notice required by law to be published in a newspaper.
- (2) The hearing shall be conducted in conformity with the applicable provisions of Sections 91-9, 91-10, 91-11, and 91-13, Hawaii Revised Statutes.
- (3) The determination shall be subject to such limitations or standards as may be prescribed by law. If the Commission decides in favor of the applicant or petitioner, the Commission shall promptly notify the applicant or petitioner thereof. If the Commission decides otherwise, it shall issue an appropriate decision and order in writing. Such decision and order shall be accompanied by separate findings of fact and conclusions of law. The Commission shall within a reasonable time send a certified copy thereof to the applicant or petitioner.
- (4) Any of the foregoing procedures may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(f) Judicial review shall be provided by law.

Chairman
 County Transportation Commission

Approved this 16th day of
November, 1971.

Shunichi Kimura
SHUNICHI KIMURA, Mayor
County of Hawaii

APPROVED AS TO FORM
AND LEGALITY:

Alvin Kamin
Corporation Counsel

Approved by County Council on this
15th day of December, 1971.

Haruo Matayoshi
Council Chairman

Given under my hand and the Seal of the County of Hawaii this 15th day
of December A.D., 1971.

Tadashi Suzuki
County Clerk

CERTIFICATION

The undersigned Chairman, County Transportation Commission, does hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules and Regulations of the County Transportation Commission of the County of Hawaii, State of Hawaii, which were adopted on October 21, 1971.

2. That notice of public hearing on the foregoing Rules and Regulations, which notice included a statement of the substance of the proposed rules and regulations, was published in the Hawaii Tribune Herald on September 29, 1971.

William J. Partridge
Chairman
County Transportation Commission

Received this 15th day of
December, 1971.

Tadashi Suzuki
County Clerk

PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF
RULES AND REGULATIONS OF
COUNTY TRANSPORTATION COMMISSION
COUNTY OF HAWAII

Date _____

TO: County Transportation Commission of County of Hawaii

- 1. Names of petitioners and nature of each petitioner's interest.

Petitioner (name, address and telephone) INTEREST

- 2. We desire to have (Section _____ of the rules /repealed/ /or amended to read/ (a new rule added to read):

- 3. The proposal shall be adopted for the following reasons:

- 4. Additional information.

- 5. Signature of Each Petitioner.

PETITION FOR DECLARATORY RULING

Date _____

TO: County Transportation Commission
County of Hawaii
Hilo, Hawaii

1. Names of petitioners and nature of each petitioner's interest.
Petitioner (name, address and telephone) INTEREST

2. We desire to have a declaratory order as to the applicability of (State law, ordinance, or order of the County Transportation Commission of County of Hawaii) to the following situations:

2a. The declaratory order desired should read:

3. Authorities and arguments in support of the request declaratory order are:

4. Signature of each petitioner.

RULES AND REGULATIONS OF THE
COUNTY TRANSPORTATION COMMISSION
COUNTY OF HAWAII
STATE OF HAWAII

AMENDMENTS TO THE RULES OF PRACTICE AND PROCEDURE OF THE COUNTY
TRANSPORTATION COMMISSION, COUNTY OF HAWAII, HILO, HAWAII.

Be it prescribed by the County Transportation Commission, County of
Hawaii, State of Hawaii:

Section 1. The Rules of Practice and Procedure of the County
Transportation Commission, County of Hawaii, are hereby amended in the
following respects:

1. By amending Rule 4(a) to read as follows:

"(a) Rules for Commission meeting.

(1) Time and Place of Regular Meetings.

The Commission shall hold regular meetings at 1:00
p.m. on the first Thursday of March, June, September
and December in the [County Building] Hawaii County
Councilroom, Hilo, Hawaii, or on the following day
if such Thursday is a public holiday; [or] provided,
that the date, time and place of any regular meeting
may be changed [by motion duly adopted at a regular
or special meeting at least one week prior to the
rescheduled meeting date.] upon proper notice being
given pursuant to Sec. 92-7 Hawaii Revised Statutes.

(2) Quorum

Five (5) members shall constitute a quorum."

2. By amending Rule 4(e) to read as follows:

"(e) Application for Certificate of Public Convenience and
Necessity, Revocation of Certificates, Adoption, Amend-
ment or Repeal of Rules, Establishment or Revision of
Routes, Schedules, Rates, Standard of Safety and Insur-
ance Requirements, or Other Adjudication.

(1) The applicant or petitioner shall be notified in
writing of the hearing of his opportunity to be
heard thereat. Such notice shall conform to the
requirements of Sections [91-9 (6)] 91-9 and 91-9.5,
Hawaii Revised Statutes, and shall be sent not less
than [ten (10) calendar] fifteen (15) days before
the date of the hearing. Such notice shall be in
addition to any notice required by law to be pub-
lished in a newspaper.

(2) The hearing shall be conducted in conformity with the
applicable provisions of Section 91-9, 91-10, 91-11,
and 91-13, Hawaii Revised Statutes.

(3) The determination shall be subject to such limita-
tions or standards as may be prescribed by law.
If the Commission decides in favor of the applicant
or petitioner, the Commission shall promptly notify

the applicant or petitioner thereof. If the Commission decides otherwise, it shall issue an appropriate decision and order in writing. Such decision and order shall be accompanied by separate findings of fact and conclusions of law. The Commission shall within a reasonable time send a certified copy thereof to the applicant or petitioner.

- (4) Any of the foregoing procedures may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default."

Section 2. Rules to be deleted are bracketed. New material is underscored. In printing these rules the Director of Finance need not include the brackets, the bracketed material or the underscoring.

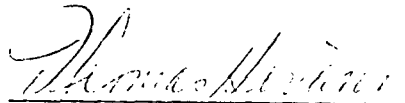
Section 3. Severability. If any provision of these amendments or the applicability of such provision to any person or circumstances shall be held invalid, the validity of the remainder of the provisions to other persons or circumstances shall not be affected thereby.

Section 4. The provisions of Section 91-3 of the Hawaii Revised Statutes have been met, including a public hearing which was held on June 7, 1979, and proper notice of the public hearing and substance of the proposed amendments to the rules and regulations were advertised in the Hawaii Tribune Herald on May 17, 1979.

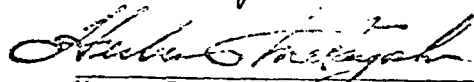
Section 5. These amendments shall become effective ten days after filing with the County Clerk of the County of Hawaii.

The foregoing amendments were unanimously adopted by the members of the County Transportation Commission of the County of Hawaii at its regular meeting held on June 7, 1979.

COUNTY TRANSPORTATION COMMISSION


THOMAS HIRANO, Chairman

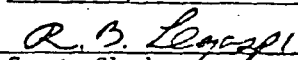
Approved this 3rd day of
August, 1979.


Mayor, County of Hawaii

APPROVED AS TO FORM
AND LEGALITY

BRUCE M. ITO
DEPUTY Corporation Counsel

Received this 3rd day of
August, 1979.


County Clerk

RULES AND REGULATIONS OF THE
COUNTY TRANSPORTATION COMMISSION
COUNTY OF HAWAII
STATE OF HAWAII

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wise, it shall issue an appropriate decision and order
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panied by separate findings of fact and conclusions of law. The Commission shall within a reasonable time send a certified copy thereof to the applicant or petitioner.

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COUNTY TRANSPORTATION COMMISSION

APPROVED AS TO FORM
AND LEGALITY:

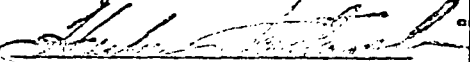

THOMAS HIRANO, Chairman

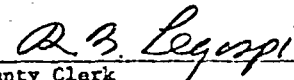
BRUCE M. ITO

ASSISTANT CORPORATION COUNSEL


Approved this 17th day of
September, 1979.

Given under my hand and the Seal
of the County of Hawaii this
3rd day of October A.D.,
1979.


Mayor, County of Hawaii


County Clerk

Approved by County Council on this
3rd day of October, 1979.


Council Chairman

Received this 3rd day of
October, 1979.


County Clerk