

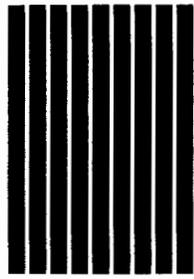
BOARD OF EQUALIZATION
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Wednesday, April 30, 2014 at 5 PM
City Hall Conference Room #224

- I. Call to Order**
- II. Roll Call**
- III. Election of Officers** – Election of Chair and Vice-Chair for the 2014 B.O.E. cycle
- IV. Training/Orientation for Board of Equalization Members**
- V. Board Member Availability/Scheduling & Panel Assignments**
- IV. Adjournment**

Packet Materials Attached:

- June 30, 2009 John Hartle Memo re: Board of Equalization Standards & Procedures with attachments
- “The Board of Equalization and the Appeal Process” – Assessor’s PowerPoint
- “USPAP Compliance” – Uniform Standards of Professional Appraisal Practice requirement overview by the Assessor’s office
- July 24, 2013 Procedural Guidelines for Conducting a Board of Equalization Hearing by Deputy City Attorney Jane Sebens
- May – August 2014 Calendar



CBJ Law Department
MEMORANDUM

To: Board of Equalization
From: John W. Hartle, City Attorney 
Subject: Board of Equalization: Standards and Procedures
Date: June 30, 2009

SUMMARY

- (1) The Board of Equalization functions as a quasi-judicial body, which means that the Board has authority to hear and decide assessment appeals in a manner similar to a court, but less formal than a court.
- (2) The burden of proof is on the appellant property owner.
- (3) The Board should make specific findings in support of its decisions, and should base its decisions on the record.
- (4) To grant an appeal, Board members should make a motion to grant the appeal and vote in the affirmative; to deny an appeal (that is, uphold the assessor's decision), Board members should make a motion to grant the appeal and vote in the negative. The Board may also grant an appeal and make an adjustment to the assessment different from that requested by the appellant.
- (5) The assessment process, the Board's procedures and standards, and property taxation are all governed by Alaska Statute and CBJ Code. AS 29.45.190 - AS 29.45.210 provide the time for filing appeals, procedures before the Board, and the standards to be used by the Board in deciding appeals. The pertinent statutes and code sections are attached to this memorandum for your reference.

DEADLINE FOR FILING APPEAL

In order to appeal an assessment, a taxpayer must file an appeal within 30 days after the date of mailing of the assessment notice. AS 29.45.190(b); CBJ 15.05.160(a). After this time period, the right of appeal ceases, unless the Board finds that the taxpayer was “unable” to comply with the 30-day filing requirement. The word “unable” as used in this section does not include situations where the taxpayer forgot about or overlooked the assessment notice, was out of town during the period for filing an appeal, or similar situations. Rather, it covers situations that are beyond the control of the taxpayer and, as a practical matter, prevent the taxpayer from recognizing what is at stake and dealing with it. Such situations would include a physical or mental disability serious enough to prevent the person from dealing rationally with his or her private affairs.

There are few situations in which a taxpayer is “unable” to comply with the requirement that an appeal be filed within 30 days of the date of mailing of the notice of assessment. It is common knowledge that real property is subject to assessment and taxation and it is the duty of every property owner to take such steps as are necessary to protect his or her interests in the property. One of the steps that courts generally assume a prudent property owner takes is to have someone either watch or manage the property while the property owner is away from the property for an extended period of time.

It is the responsibility of the property owner to assure that the taxing authority has the correct address to which notices relating to assessments and taxes on the property may be sent in order that the property owner will receive timely notice of assessments and tax levies affecting the property. Failure to receive an assessment notice because it was sent to an old address that the property owner had not corrected, or because the notice was sent to the property owner at the correct address but while the property owner was out of town, are not reasons that make the property owner “unable” to file a timely appeal.

With respect to an appeal filed after expiration of the 30-day appeal period, the Board should consider the oral and written evidence presented by the property owner on the question of whether or not the owner was “unable” to file the appeal within the required 30-day appeal period. If the property owner fails to prove that he or she was “unable” to file the appeal in a timely manner, there is no basis for hearing the appeal, even if the Board believes the assessment should be adjusted.

ASSESSMENTS THE BOARD CAN CONSIDER

The Board has authority to alter an assessment only when an appeal has been timely filed regarding the particular parcel. AS 29.45.200(b). The Board has no authority to alter the assessment of a parcel that is not before the Board on an appeal. Under state law, an appeal may be filed only by a person whose name appears on the assessment roll or the agent of that person. AS 29.45.190(a); CBJ 15.05.150.

If an appellant fails to appear at the hearing, the Board may proceed with the hearing in the absence of the appellant. AS 29.45.210(a); CBJ 15.05.190(b). The appellant may appear through an agent or representative, and may present written and/or oral testimony or other materials to the Board in support of the appeal.

BASIS FOR ADJUSTMENT AND ASSESSMENT

AS 29.45.210(b) and CBJ 15.05.190 expressly place the burden of proof on the party appealing the assessment. *CH Kelly Trust v. Municipality of Anchorage, Bd. of Equalization*, 909 P.2d 1381 (Alaska 1996) (“the burden is properly placed on the property owners in an assessment challenge”). Before the property owner is entitled to an adjustment, the property owner must prove, based on facts stated in the written appeal or presented at the hearing, that the property is the subject of unequal, excessive, improper, or under valuation. AS 29.45.210(b); CBJ 15.05.180(c). The appellant may present written evidence, oral testimony, and witnesses at the hearing.

Alaska courts do not disturb valuations set by the assessor if the differences between the appellant and the assessor are merely differences of opinion. Our court applies a “deferential standard of review” when considering an assessor’s property valuations. *Cool Homes, Inc. v. Fairbanks N. Star Borough*, 860 P.2d 1248, 1262 (Alaska 1993); *Fairbanks N. Star Borough v. Golden Heart Utilities, Inc.*, 13 P.3d 263, 267 (Alaska 2000). “AS 29.45.210(b) requires that the taxpayer prove *facts* at the hearing. ... It is not enough merely to argue that the valuation was inadequate or demand a justification from the taxing authority.” *Cool Homes, Inc., at 1263* (emphasis in original).

In *Twentieth Century Investment Co. v. City of Juneau*, 359 P.2d 783, 787 (Alaska 1961), the court, addressing assessment standards under former, similar law (AS 29.53.140), stated:

The valuation and assessment of property for taxes does not contravene [constitutional principles] unless it is plainly demonstrated that there is

involved, not the exercise of the taxing power, but the exertion of a different and forbidden power, such as the confiscation of property. *Such a demonstration is not made simply by showing overvaluation; there must be something which, in legal effect, is equivalent to an intention or fraudulent purpose to place an excessive valuation on property, and thus violate fundamental principles that safeguard the taxpayer's property rights.*

(Emphasis added.) The court went on to state, at 788:

The City was not bound by any particular formula, rule or method, either by statute or otherwise. Its choice of one recognized method of valuation over another was simply the exercise of a discretion committed to it by law. Whether or not it exercised a wise judgment is not our concern. This court has nothing to do with complaints of that nature. It will not substitute its judgment for the judgment of those upon whom the law confers the authority and duty to assess and levy taxes. *This court is concerned with nothing less than fraud or the clear adoption of a fundamentally wrong principle of valuation.* Neither has been shown here. The actions of the assessor and the Board of Equalization are entirely compatible with a sincere effort to adopt valuations not relatively unjust or unequal; their determinations have not transgressed the bounds of honest judgment.

(Emphasis added.) This principle, that “taxing authorities are to be given broad discretion in selecting valuation methods,” was reaffirmed in *CH Kelly Trust*, 909 P.2d at 1382, and *Golden Heart Utilities, Inc.*, 13 P.3d at 267 (“Provided the assessor has a reasonable basis for a valuation method, that method will be allowed ‘so long as there was no fraud or clear adoption of a fundamentally wrong principle of valuation.’”). Similarly, in *Cool Homes, Inc.*, 860 P.2d at 1262, the court held:

Taxing authorities are to be accorded broad discretion in deciding among recognized valuation methods. If a reasonable basis for the taxing agency's method exists, the taxpayer must show fraud or the ‘clear adoption of a fundamentally wrong principle of valuation.’

Thus, the assessor's valuations should be given substantial weight by the Board, particularly where the appellant offers little more than unsupported opinion that the assessor's value is too high. In order to be considered an unequal, excessive, improper, or under valuation, the valuation must be unequivocally excessive, or fundamentally wrong.

This assumes that the assessor has reviewed the critical facts. Our court requires the assessor to review all “directly relevant” evidence of the property value and “prevailing market conditions.” *Faulk v. Bd. of Equalization, Kenai Peninsula Borough*, 934 P.2d 750, 752 (Alaska 1997). Thus, it is important that the assessor, and the Board, make sure that all relevant evidence is considered.

FINDINGS – BASIS FOR THE BOARD’S DECISIONS

Board of Equalization decisions are subject to judicial review, if an appeal to superior court is filed within 30 days. Consequently, it is important for the Board to either make specific findings (statement of reasons) for its decisions, or otherwise set out sufficient information to enable a reviewing court to ascertain the reasons for the Board’s action. An appeal to superior court of a determination of the Board is heard on the record established at the Board hearing. AS 29.45.210(d). It is important that the record be as clear and complete as possible.

The Alaska Supreme Court outlined the requirements for board of equalization decisions in *Faulk*, 934 P.2d at 751, as follows:

We have previously concluded that “[t]he threshold question in an administrative appeal is whether the record sufficiently reflects the basis for the [agency’s] decision so as to enable meaningful judicial review.” *Fields v. Kodiak City Council*, 628 P.2d 927, 932 (Alaska 1981). In answering that question, “[t]he test of sufficiency is ... a functional one: do the [agency’s] findings facilitate this court’s review, assist the parties and restrain the agency within proper bounds?” *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 175 (Alaska 1993).

The court remanded the case to the borough board of equalization because the board had not provided an adequate basis for the court to determine whether it had reasonably denied the property tax appeal. The court directed: “On remand, the superior court should instruct the Board to state its reasons for rejecting the Faulks’ appeal.” *Id.* at 753.

Accordingly, the Board should take care to state its reasons for granting or denying an appeal, or making an adjustment to the assessment different from that requested by the appellant.

ACTION BY THE BOARD OF EQUALIZATION

In taking action on appeals, a Board member should move and vote in the affirmative to grant the appeal by the taxpayer. A Board member should vote in the negative to deny the appeal and thereby affirm the assessor's determination.

Sample motions: "I move that the Board grant the appeal and I ask for a 'yes' vote for the reasons provided by the appellant;" OR "I move the Board grant the appeal, and I ask for a 'no' vote for the reasons provided by the Assessor;" OR "I move the Board grant the appeal and I ask for a 'yes' vote to adjust the assessment to \$X for the following reasons [statement of reasons]."

For appeals that are not timely filed, the Board should first vote on whether or not to hear the appeal; if the Board decides to hear the appeal, it should then be heard on its merits.

The Board is required to certify its actions to the assessor within seven days, and, except as to supplementary assessments, the assessor must enter the changes and certify the final roll by June 1. AS 29.45.210(c). The rate of levy must be determined by the Assembly by ordinance before June 15. AS 29.45.240. The CBJ budget must be adopted by May 31. If for any reason the Board hearing is continued to a later date, the date for completing the hearing must be in the near future in order for the final assessment roll to be certified and the rate of levy fixed in accordance with the required statutory time frames.

For this year, 2009, the assessor has already certified the assessment roll and the Assembly has set the rate of levy. Following the Board's action on the appeals, the assessor will issue a supplemental assessment roll to reflect any adjustments needed as a result of the Board's action. AS 29.45.220; CBJ 15.05.235.

Attachments

WEST'S ALASKA STATUTES ANNOTATED
TITLE 29. MUNICIPAL GOVERNMENT
CHAPTER 45. MUNICIPAL TAXATION
ARTICLE 1. MUNICIPAL PROPERTY TAX
→ § 29.45.190. Appeal

- (a) A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.
- (b) The appellant shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form that the board of equalization may require. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.
- (c) The assessor shall notify an appellant by mail of the time and place of hearing.
- (d) The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.
- (e) A city in a borough may appeal an assessment to the borough board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city.

Current through legislation effective June 5, 2008 passed during the 2nd Reg. Sess. of the 25th Legislature (2008).

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CWEST'S ALASKA STATUTES ANNOTATED
TITLE 29. MUNICIPAL GOVERNMENT
CHAPTER 45. MUNICIPAL TAXATION
ARTICLE 1. MUNICIPAL PROPERTY TAX
→§ 29.45.200. Board of equalization

(a) The governing body sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who shall be members of the governing body, municipal residents, or a combination of members of the governing body and residents. The governing body shall by ordinance establish the qualifications for membership.

(b) The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure. The board may alter an assessment of a lot only pursuant to an appeal filed as to the particular lot.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court.

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WEST'S ALASKA STATUTES ANNOTATED
TITLE 29. MUNICIPAL GOVERNMENT
CHAPTER 45. MUNICIPAL TAXATION
ARTICLE 1. MUNICIPAL PROPERTY TAX
→ § 29.45.210. Hearing

(a) If an appellant fails to appear, the board of equalization may proceed with the hearing in the absence of the appellant.

(b) The appellant bears the burden of proof. The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(c) The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(d) An appellant or the assessor may appeal a determination of the board of equalization to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

Current through legislation effective June 5, 2008 passed during the 2nd Reg. Sess. of the 25th Legislature (2008).

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CITY AND BOROUGH OF JUNEAU CODE SECTIONS

CBJ 15.05.180 Notice of hearing of appeal.

The assessor shall notify each appellant by mail of the date, time, and place of the hearing of the appeal by the board of equalization. Such notice shall be addressed to the appellant at the appellant's last known address as shown on the assessor's records, and shall be complete upon mailing. Such notices shall be mailed not later than ten days prior to the date of hearing of the appeals. All such notices shall include the following information:

- (a) The date and time of day of the hearing;
- (b) The location of the hearing room;
- (c) Notification that the appellant bears the burden of proof;
- (d) Notification that the only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal timely filed or proven at the appeal hearing; and
- (e) Notification that the appellant may be present at the hearing, and that if the appellant fails to appear, the board of equalization may proceed with the hearing in the absence of the appellant.

(CBJ Code 1970, § 15.05.180; Serial No. 70-33, § 3, 1971; Serial No. 87-36, § 2, 1987)

State Law References: Appeal, AS 29.45.190; appellant fails to appear, AS 29.45.210(a); grounds for adjustment, AS 29.45.210(b).

CBJ 15.05.185 Board of equalization.

- (a) *Membership; duties; term of office; term limits.*
- (1) *Membership.* The board of equalization shall comprise a pool of no less than six, and up to nine, members, not assembly members, appointed by the assembly. There shall be up to three panels established each year. Each panel hearing appeals shall consist of three members. The board chair shall assign members to a specific panel and schedule the panels for a calendar of hearing dates. The assignment of members to panels and the establishment of a hearing calendar shall be done in consultation with the individual members. Additionally, members may be asked to take the place of regular assigned panel members in the event an assigned panel member is unable to attend a scheduled meeting.

- (2) *Qualifications of members.* Members shall be appointed on the basis of their general business expertise and their knowledge or experience with quasi-judicial proceedings. General business expertise may include, but is not limited to, real and personal property appraisal, the real estate market, the personal property market, and other similar fields.
- (3) *Duties.* The board, acting in panels, shall only hear appeals for relief from an alleged error in valuation on properties brought before the board by an appellant. A panel hearing a case must first make a determination that an error in valuation has occurred. Following the determination of an error in valuation the panel may alter an assessment of property only if there is sufficient evidence of value in the record. Lacking sufficient evidence on the record the case shall be remanded to the assessor for reconsideration. A hearing by the board may be conducted only pursuant to an appeal filed by the owner of the property as to the particular property.
- (4) *Term of office.* Terms of office shall be for three years and shall be staggered so that approximately one-third of the terms shall expire each year.
- (5) *Term limits.* No member of the board of equalization who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply if there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee.

(b) *Chair.* The board annually shall elect a member to serve as its chair. The chair shall coordinate all board activities with the assessor including assignment of panel members, scheduling of meetings, and other such board activities.

(c) *Presiding officer.* Each panel shall elect its own presiding officer to act as the chair for the panel and shall exercise such control over meetings as to ensure the fair and orderly resolution of appeals. In the absence of the elected presiding officer the panel shall appoint a temporary presiding officer at the beginning of a regular meeting. The presiding officer shall make rulings on the admissibility of evidence and shall conduct the proceedings of the panel in conformity with this chapter and with other applicable federal, state and municipal law.

(d) *Report to the assembly.* The board, through its chair, shall submit an independent report to the assembly each year by September 15 identifying, at a minimum, the number of cases appealed, the number of cases scheduled to be heard by the board, the number of cases actually heard, the percentage of cases where an error of valuation was determined to exist, the number of cases remanded to the

assessor for reconsideration, the number of cases resulting in the board altering a property assessment, and the net change to taxable property caused by board action. The report shall also include any comments and recommendations the board wishes to offer concerning changes to property assessment and appeals processes.
(Serial No. 2005-51(c)(am), § 4, 1-30-2006)

CBJ 15.05.190 Hearing of appeal.

(a) At the hearing of the appeal, the board of equalization shall hear the appellant, the assessor, other parties to the appeal, and witnesses, and consider the testimony and evidence, and shall determine the matters in question on the merits.

(b) If a party to whom notice was mailed as provided in this title fails to appear, the board of equalization may proceed with the hearing in the party's absence.

(c) The burden of proof in all cases is upon the party appealing.

(d) The board of equalization shall maintain a record of appeals brought before it, enter its decisions therein and certify to them. The minutes of the board of equalization shall be the record of appeals unless the board of equalization shall provide for a separate record.

(CBJ Code 1970, § 15.05.190; Serial No. 70-33, § 3, 1971)

State Law References: Hearing, AS 29.45.210.

CBJ 15.05.200 Judicial review.

A person aggrieved by an order of the board of equalization may appeal to the superior court for review de novo after exhausting administrative remedy under this title.

(CBJ Code 1970, § 15.05.200; Serial No. 70-33, § 3, 1971)

State Law References: Appeal to superior court, AS 29.45.210(d).

The Board of Equalization and the Appeal Process



Or



We have determined
the value to be
\$250,000.

My home can't be worth
more than \$150,000!



BOE - Points of Discussion

1. Definition of an appraisal
2. Definition of an assessment
3. Definition of the Full Value Determination
4. How do they all relate?
5. Other Definitions
6. The Appeal Process
7. The Board of Equalization
8. The Appeal Process Legal Authority

1. Appraisal - definition

- The appraised value of a property is an appraiser's opinion, or estimate, typically, of the full market value. What the property would sell for on the open market between two individuals, both knowledgeable with the uses to which the property may be put, given sufficient time for marketing and there being no undue influence to sell or buy by either party.
- The appraisal process is a systematic, logical method of processing data into intelligent, well-reasoned value estimates.

2. Assessment - definition

- The dollar amount at which a property is placed upon the assessment roll for tax purposes. The assessment originates from an appraised value.
- It may differ from the appraised value (or market value), however, for one or more reasons: 1) fractional assessment laws, 2) partial exemptions, 3) value in use rather than value in exchange or 4) lack of all of bundle of rights of property ownership.
- The assessment process is a systematic, logical method of processing data into intelligent, well-reasoned value estimates.

3. Appraisal vs. Assessment

- In Alaska, typically, the **appraised value** and the **assessed value** are synonymous, however, assessments may represent something different than just value in exchange, or market value
- The real estate market is **not an exact market** and there will be variances found in sales prices, the same can be said for variances in appraisals or “estimates” of value.

4. Full Value Determination (FVD)

Is an estimate of the TOTAL value of ALL taxable property which;

- Takes into account all municipal optional exemptions
- Addresses the assessment / sales ratio = statutory rate of 100%
- Is reviewed by assessor prior to the actual mailing each year
- It is used in the formula for calculating local school contribution

4. Relationship of Values

- **Appraisal Value** – An estimate of Market Value-Typically Only 1 property
- **Assessment Value** – An estimate of Market Value- Typically Hundreds or Thousands of Properties
- **Full Value Determination** - An estimate of Market Value of ALL taxable property within municipality - using the assessment as a starting point

5. General Definitions

- **Real Property**- By statute, means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.
- **Personal Property**- Includes tangible property other than real property, such as inventory, machinery, equipment, fixtures, vehicles, boats and aircraft.
- **Value in Exchange** – Typically reflects the “market value” of property in a competitive market (selling prices)

General Definitions (cont.)

- **Value in Use** – represents the value of property to a specific user for a specific use. For example a church has a high “use” value for its members, but the demand for churches may be minimal resulting in little “market value.” Alaska Supreme Court ruling allows the Assessor to consider “Value-in-Use.”

- **Possessory Interest** - constitutes a private right to the possession or use of otherwise exempt property for a specified time period.

- **Bundle of Rights and Fee Ownership** - The greatest degree of property ownership with the six basic rights of ownership, as follows:

Six Basics Rights of Private Ownership of Property

- Right to use
- Right to sell
- Right to lease or rent
- Right to enter or leave
- Right to give away
- Right to refuse to do any of these

Roles & Responsibilities

- Assessor (contractor or staff)
- Appellant
- Assembly/City Council
- Board of Equalization
- State of Alaska (State Assessor)

Role of the Assessor

- Appointed by Mayor, Manager or Assembly
- Administration of Property Assessments
- Determination of exemption requests
- Discovery of all taxable property, (both real and personal)
- Requires adequate mapping for real property
- Personal property-self reporting; monitoring by assessor, force filings, if necessary
- Listing of all property
- Valuation of all taxable (real & personal) property
- Notification to all property owners of values
- Appearance before the BOE to defend assessments
- Goal is to achieve uniform assessments
- In order to produce equality in the tax burden, there must be uniformity in the manner of assessments
- Between standards of **actual value and uniformity of assessments**, courts generally prefer the latter.

Approaches to Value

- **Cost Approach** – Requires estimates of land value, accrued depreciation and current cost of constructing the improvements
- **Sales Comparison Approach** – Models the behavior of the market by comparing property being appraised with similar properties that have recently sold
- **Income Approach** – Is an estimate of the present value of future benefits; chiefly, income and sale of the property
- **Statistical Approach** – Can value variables, trend factors, and is an aid to conclusions of value by use of statistical analysis through the use of computers

The Assessment

- The Assessor has a professional responsibility to the municipality and the property owners
- Assessor is presumed to have performed his/her duty in accordance with law
- Without evidence to the contrary, the value determined by the Assessor is presumed to be correct
- Modern appraisal methods, computerization and upgrade of assessment procedures help keep values more accurate

The Appeal Process

- The **Assessor** is the government official responsible for establishing the value of all property within a municipality's boundaries for ad valorem purposes, **not** the Board of Equalization (BOE)
- If the property owner disagrees with the value, he/she files for a meeting with the Assessor to review the assessment within 30 days of the mailing of assessment.
- An Assessor level meeting may be scheduled to review the property and any evidence the property owner has provided will be considered to determine if an adjustment is needed. The burden of proof at this point is with the property owner.
- If there is still no agreement, the appeal goes to the BOE. Both the appellant and the Assessor provide evidence to support their determinations.
- BOE reviews the evidence packet prior to the hearing. At the hearing, the BOE listens to the appellant and the Assessor's arguments and make ask questions of each party.
- The BOE will render a determination based upon facts presented at the hearing. The decision may be no change to the assessed value or an adjustment to value higher or lower than the assessment.

The Board

- By statute, is comprised of assembly members;
or
- The Assembly may delegate this authority to one or more lay boards.

- Appointed Boards may not be less than 3 members.

- May be made up of assembly members, members of the public or a combination of the two.

The Appeal

- Property owners may appeal to the BOE for relief from inaccurate assessments.

- The Appellant not the Assessor, bears the burden of proof.

- If the Appellant meets this burden, then the burden falls to the Assessor.

- Appeal should be in a written format with evidence why owner feels assessment is unjust.

- Not sufficient for appellant merely to establish there is a disagreement with the assessor's value.

The Appeal (Cont.)

- All Appeals must establish that valuation is **unequal**, **excessive**, **improper** or **undervalued** as required by AS 29.45.210(b)

The following information is intended for use as guidelines:

Unequal, Excessive, Improper

- **EXCESSIVE** – To show that an assessment is excessive, an appellant must show that the assessment is more than just overvalued. It must be shown that the assessment is grossly disproportionate when compared to other assessments (*OR, it can be shown that there is an intentional or fraudulent purpose to place an excessive valuation on the property.*)
- **UNEQUAL** – To show that an assessment is unequal, the appellant must show that there are other properties in the same class as the property being appealed and that there is no basis that would justify different valuations of the property.
- **IMPROPER** – To show that an assessment is improper, it must be shown that the assessor used an improper method of valuation, which amounts to fraud or a clear adoption of a wrong principle of valuation.

Finding of Facts/Conclusions of Law

Definition: Finding of Facts-

Determinations from the evidence of a case concerning facts claimed by one party and denied by another.

Legal Definition: Conclusion of Law-

The final judgment or decree required on the basis of facts found during the hearing.

Important Points to Remember:

- Treat every case as though it will be appealed to the courts
- The courts will review the record of the hearing – an appellant does not receive a new hearing
- Courts need to know how you made your decision
- Place yourself in courts position and determine if you can understand why BOE made the decision it made
- Make sure your findings of fact relate to the issues brought forth
- If the appellant has made an assertion as to why the value should be lower, make sure your conclusions address the assertion as to why it was or was not considered appropriate- If the court can't understand your findings, it will probably send the case back to the Board

Late Filed Appeals

- The BOE may allow a late file if the owner was unable to comply with the 30 day appeal period.
- The BOE should have written reasons why someone may file late appeal.
- Be consistent with applications of late file requests
- The Assessors office mails notification to last known address or owner.
- A Sale of property may occur after mailing of notice, however, this does not negate the original 30 day filing period, because notice was made.

Alaska Statutes

- **AS 29.45.110 through AS 29.45.210** is the legal authority for the assessment, the appeal, the Board of Equalization and the B.O.E. hearing process.
- Assessments are guided both by statute, and by Alaska Court cases. There have been several court cases through the years which assist the assessor in applications of standards, such as Possessory Interests, Farm Use, and certain property tax exemptions.

Some Reasons Given for Value Reduction

- Taxes are too high
- Value Increase too much
- No improvements made to property
- Neighbors house valued less
- Not enough services from Municipality for taxes paid
- Value is just plain excessive, improper and unequal
- Didn't receive assessment notice

Some B.O.E. "Don'ts"

DO NOT offer a small deduction to "help out" the appellant

DO NOT bring in your own comparables; you should consider only what is presented at the hearing

DO NOT expect your assessor to provide a long narrative appraisal report

DO NOT try to review a case where the question is a matter of law, not value

DO NOT attempt to re-appraise the property

DISASTERS – All assessments are made as of January 1- Post-Assessment date property tragedies cannot be changed by the BOE.

B.O.E. “Do’s”

- **Do** show both the appellant and the assessment staff the courtesy of your attention
- **Do** make your decisions based upon **ONLY** the facts presented at the hearing.
- **Do** leave your “appraisal calculator” at the front door.
- **Do** remember that the assessors staff are professional appraisers that have been to schools on appraisal standards and techniques, the appellant, typically, has not.

Summary

- The B.O.E. sits in **review** of the assessments prepared by the Assessor
- The B.O.E. **does not** make a new appraisal
- The B.O.E. should make a determination of value **based upon facts presented** at the hearing
- Your determination **should include all findings of fact** that led to the decision by the B.O.E.

THANK YOU

For your time and your willingness to serve on the BOE

USPAP COMPLIANCE

Client and intended use of the Appraisal

*This mass appraisal report is intended for use only by the City & Borough of Juneau Assessor and those agencies or departments administering or confirming ad valorem property taxes. Use of this report by others is not intended. The use of this report, analysis, and conclusions is limited to the administration of ad valorem property taxes in accordance with Alaska State law. As such, it is written in concise form to minimize paperwork. The assessor intends that this report conform to the Uniform Standards of Professional Appraisal Practice (USPAP) requirements for a **mass appraisal report**. To fully understand this report the reader may need to refer to the Assessor's Property Record Files, Assessor's Real Property Data Base, separate studies, Assessor's procedures, Assessor's field maps, or City & Borough of Juneau County Assessor's Annual Report.*

The purpose of this report is to explain and document methods, data and analysis used in determining the market value of the identified properties as of the identified date.

Market Value

The actual value of all property subject to assessment and taxation shall be the fair and true reasonable market value of such property except as otherwise provided in this section. "Market value" is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value. In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.

Highest and Best Use

Definition - The Fourth Edition of The Dictionary of Real Estate Appraisal, published by the Appraisal Institute.

The reasonably probable and legal use of vacant land or an improved property, which is physically possible appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity

Fee Simple

Definition - The Fourth Edition of The Dictionary of Real Estate Appraisal, published by the Appraisal Institute.

Absolute ownership unencumbered by any other interests or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

Assumptions and Limiting Conditions

- 1. No opinion as to title is rendered. Data on ownership and legal description were obtained from public records. Title is assumed to be marketable and free and clear of all liens and encumbrances, easements and restrictions unless noted in the property record files. The property is appraised assuming to be under responsible ownership and competent management and available for its highest and best use.*
- 2. No engineering survey has been made. Except as specifically stated, data relative to size and area were taken from sources considered reliable, and no encroachment of real property improvements is assumed to exist.*
- 3. No responsibility for hidden defects or conformity to specific governmental requirements, such as fire, building in safety, earthquake, or occupancy codes, can be assumed without provision of specific professional or governmental inspections*
- 4. Rental areas herein discussed have been calculated in accordance with generally accepted industry standards.*
- 5. The projections included in this report are utilized to assist in the valuation process and are based on current market conditions anticipated short-term supply demand factors. Therefore, the projections are subject to changes in future conditions that cannot be accurately predicted by the appraiser and could affect the future income or value projections.*
- 6. The property is assumed uncontaminated unless the owner comes forward to the Assessor and provides other information.*
- 7. The appraiser is not qualified to detect the existence of potentially hazardous material which may or may not be present on or near the property. The existence of such substances may have an effect on the value of the property. No consideration has been given in this analysis to any potential diminution in value should such hazardous materials be found (unless specifically noted). We urge the taxpayer to retain expert in field and submit data affecting value to the Assessor.*
- 8. No opinion is intended to be expressed for legal matters or that would require specialized investigation or knowledge beyond that ordinarily employed by real estate appraisers, although such matters may be discussed in this report.*

9. *Maps and exhibits included herein are for illustration only, as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose.*
10. *The appraisal is the valuation of the fee simple interest. Unless shown on the Assessor's parcel maps, easements adversely affecting property value were not considered.*
11. *No personal property is included in this appraisal.*
12. *Any movable equipment and/or fixtures have not been appraised as part of the real estate.*
13. *Any knowledge of anticipated public and private improvements and their possible effect on value has been considered. No special effort to contact the various jurisdictions to determine the extent of their anticipated public improvements has been made.*
14. *The City & Borough of Juneau Assessor's Office property listing information, as of the date of the appraisal, is utilized as the accurate physical information for the property. Physical characteristics of a property that are found to be different than the Assessor's listing may effect the value conclusion.*

Certification

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the properties that are the subject of this report, and I have no personal interest with respect to the parties involved.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of a portion of the properties that are the subject of this report. The inspection records, including date of inspection, type of inspection, and person performing the inspection, for each property that is the subject of this report are part of the City & Borough of Juneau Assessor's office property records and are available for review.

Procedural Guidelines for Conducting a Board of Equalization Hearing

- I. CALL TO ORDER by the Chair/Presiding Officer
- II. ROLL CALL - Chair asks clerk to call the roll
- III. Suggested Introduction before hearing cases
 - A. Review informal hearing procedure
 1. Order of presentations: Appellant, then Assessor (Appellant may reserve rebuttal time)
 2. Time for each side (including BOE questions during presentation) is ___ minutes
 3. After presentations, BOE member will make motion, which motion will be restated by Chair
 4. BOE will then debate/deliberate on the motion
 5. BOE will vote/take action on motion
 6. Chair announces whether motion carries/fails
 - a. Whether appeal granted/denied
 - b. Whether late-filed appeal will be heard (hearing date can be set or scheduled later by clerk)
 - B. Review controlling legal standards that apply to BOE cases
 1. Appellant has burden of proof in all cases
 2. **To accept a late-filed appeal**, BOE must find that:
Taxpayer was **unable to comply** with filing deadline. (ie, disability or other situation beyond taxpayer's control - see Hartle 4/19/2013 memo); AS 29.45.190(b); CBJ 15.05.160(a).
 3. **To grant an appeal on the merits**, BOE must find that:
Taxpayer proves **unequal, excessive, improper or under valuation** based on facts stated in written appeal or proven at hearing. See Hartle 4/19/2013 memo; AS 29.45.210(b); CBJ 15.05.180(d).
- IV. Conduct Appeal Hearings
- V. Consideration of Late-filed Appeals
- VI. Adjournment

SAMPLE/MODEL MOTION LANGUAGE

APPEALS HEARD ON THE MERITS

I MOVE **THAT THE BOARD GRANT THE APPEAL** AND I ASK FOR A **YES VOTE** FOR THE REASONS PROVIDED BY THE APPELLANT;

I MOVE **THAT THE BOARD GRANT THE APPEAL** AND I ASK FOR A **YES VOTE** TO ADJUST THE ASSESSMENT TO \$___ FOR THE FOLLOWING REASONS . . .

I MOVE THAT THE BOARD GRANT THE APPEAL AND I ASK FOR A **NO VOTE** FOR THE REASONS PROVIDED BY THE ASSESSOR;

LATE-FILED APPEALS

I MOVE **THAT THE BOARD HEAR THE LATE-FILED APPEAL** AND I ASK FOR A YES VOTE FOR THE REASONS PROVIDED BY THE APPELLANT;

I MOVE THAT THE BOARD HEAR THE LATE-FILED APPEAL AND I ASK FOR A NO VOTE FOR THE REASON THAT APPELLANT HAS NOT PROVEN HE/SHE COULD NOT COMPLY WITH THE FILING DEADLINE;

May 2014

May 2014							June 2014								
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa		
18					1	2	3	23	1	2	3	4	5	6	7
19	4	5	6	7	8	9	10	24	8	9	10	11	12	13	14
20	11	12	13	14	15	16	17	25	15	16	17	18	19	20	21
21	18	19	20	21	22	23	24	26	22	23	24	25	26	27	28
22	25	26	27	28	29	30	31	27	29	30					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Apr 27	28	29	30	May 1	2	3
18							
	4	5	6	7	8	9	10
19							
	11	12	13	14	15	16	17
20							
	18	19	20	21	22	23	24
21							
	25	26	27	28	29	30	31
22							

June 2014

June 2014

	Su	Mo	Tu	We	Th	Fr	Sa
23	1	2	3	4	5	6	7
24	8	9	10	11	12	13	14
25	15	16	17	18	19	20	21
26	22	23	24	25	26	27	28
27	29	30					

July 2014

	Su	Mo	Tu	We	Th	Fr	Sa
27			1	2	3	4	5
28	6	7	8	9	10	11	12
29	13	14	15	16	17	18	19
30	20	21	22	23	24	25	26
31	27	28	29	30	31		

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Jun 1	2	3	4	5	6	7
23							
	8	9	10	11	12	13	14
24							
	15	16	17	18	19	20	21
25							
	22	23	24	25	26	27	28
26							
	29	30	Jul 1	2	3	4	5
27							

July 2014

July 2014							August 2014						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
27		1	2	3	4	5	31		1	2			
28	6	7	8	9	10	11	32	3	4	5	6	7	8
29	13	14	15	16	17	18	33	10	11	12	13	14	15
30	20	21	22	23	24	25	34	17	18	19	20	21	22
31	27	28	29	30	31		35	24	25	26	27	28	29
							36	31					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Jun 29	30	Jul 1	2	3	4	5
27							
	6	7	8	9	10	11	12
28							
	13	14	15	16	17	18	19
29							
	20	21	22	23	24	25	26
30							
	27	28	29	30	31	Aug 1	2
31							

August 2014

August 2014							September 2014						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
31					1	2	36	1	2	3	4	5	6
32	3	4	5	6	7	8	37	7	8	9	10	11	12
33	10	11	12	13	14	15	38	14	15	16	17	18	19
34	17	18	19	20	21	22	39	21	22	23	24	25	26
35	24	25	26	27	28	29	40	28	29	30			
36	31												

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Jul 27	28	29	30	31	Aug 1	2
31							
	3	4	5	6	7	8	9
32							
	10	11	12	13	14	15	16
33							
	17	18	19	20	21	22	23
34							
	24	25	26	27	28	29	30
35							
	31	Sep 1	2	3	4	5	6
36							