BOARD OF EQUALIZATION
THE CITY AND BOROUGH OF JUNEAU, ALASKA
Wednesday, July 29, 2015 at 5 PM
Municipal Building – Assembly Chambers

I. Call to Order

David Epstein called the meeting to order at 5 p.m.

II. Roll Call

BOE Panel Present: David Epstein, Ed Kalwara, Barbara Sheinberg.

Other BOE Members Present: Steve Moseley.

Staff Present: Jane Sebens, Deputy Attorney; Laurie Sica, Municipal Clerk; Bob Bartholomew, Finance Director; Robin Potter, Assessor; John Sahnow, Deputy Assessor.

III. Approval of Minutes

MOTION by Sheinberg, seconded by Kalwara, to approve the minutes of the BOE meeting on June 16, 2015. Hearing no objection, the minutes were adopted.

IV. Property Appeals

CBJ Appeal Tracking #	2015-0088		
Subject Property			
CBJ Parcel #	4B1801070063		
Physical Location	1505 Mendenhall Peninsula Rd		
Appellant Name	Southeast Alaska Land Trust		
2015 Preliminary Assessed Value			
Land	$ 87,000	Improvements	$ -
Exemptions	$ -		
TOTAL TAXABLE			**$ 87,000**
Owner's Estimated Value			
Land		Improvements	
Exemptions			
TOTAL TAXABLE			**$ -**
CBJ Assessors Office Recommendation			
Land	$ 87,000	Improvements	$ -
Exemptions	$ -		
TOTAL TAXABLE			**$ 87,000**

Chair Epstein outlined the order of business and noted that the burden of proof was upon the Appellant was to prove that the assessment was unequal, excessive, improper or undervalued.

Ms. Sheinberg said she has been a member of SEAL Trust and knows several people on the board and staff. She consulted with the attorney, was provided with the conflict of interest code, and after reading the code, said she felt she did not have a conflict.

Allison Gillum, Executive Director, Southeast Alaska Land Trust was present to represent the Appellant. SEAL Trust is a 501c3 nonprofit organization with a mission to acquire property interests in order to protect the natural, recreational and cultural value of those lands. The property in question is part of a specific project they are doing to acquire the accretion land that is taken out of the Mendenhall Wetlands State Game Refuge. They have worked on this for five years and currently own 12 accretion parcels. She said their main point of appeal was that as of January 1, 2015, the parcel they purchased was a "conservation lot." CBJ ordinances on subdivisions require 30 feet of road frontage per lot and these lots do not have meet that requirement, but can obtain and exception from the requirement by declaring that they are "conservation lots." This designation extinguishes the right of the owner to develop the property. SEAL Trust works with landowners, develops a purchase and sale agreement, and agrees to pay the fair market value of the accretion land, and to pay for the value to create a conservation lot, which extinguishes the development rights. SEAL Trust agrees to purchase the entire value of the property and that includes the development value and whatever underlying value there is once the conservation lot is put into place. Seal Trust considers this to be one transaction. An owner is not able to subdivide without putting it into conservation status. The purchase price is set on the appraised value of the property before the conservation lot is put into place because we are paying the land owner to extinguish those rights. It was unique that the conservation lot was put into place in one year and the actual purchase of the property happened four weeks later, due to a number of factors including a mistake by CBJ so they could not close when they hoped to. It is no longer worth the appraised value do to the conservation status. The conservation lot deed restriction was put into place on December 12, 2014, and that action needed to be re-recorded due to a mistake that was put into the restriction. The second restriction was recorded in January, 2015 and we finished the project on January 28. Despite the timing lag, we consider this one transaction. We paid the landowner the full value of the property which was signed in February 2013. Even though it appears we paid an inflated amount for the conservation lot that is not what is occurring. We do not agree to buy conservation lots at inflated values. We would pay for existing conservation lots at a value for a conservation lot. We believe the parcel is over-assessed and believe the lot should be assessed as a conservation lot.

John Sahnow, Deputy Assessor, said every parcel in the Borough was assessed as of January 1 and the Assessor does not have flexibility on that date. He said that the Assessor did not dispute that the lot had conservation lot applied to it. However, all of the evidence of value that he was able to acquire regarding these types of transactions, particularly along the Mendenhall Wetlands Game reserve suggests that these transactions between the original owner – the person who goes through the quiet title action – and SEAL Trust, are occurring at roughly $25,000 per acre. He understood that if one had land with a conservation easement in place in a different market, it might be at a different value, but this is the expected value that the seller is thinking they will receive for going through the process. On January 1, this transaction had not been recorded, so we are looking at it as it belongs to Garrard and Kartchner, who own the upland, adjoining lot. They went through the quiet title action to acquire the accreted land and had entered into an agreement with SEAL Trust, but the transaction had not been recorded on January 1. From the Assessor's perspective, the value was still typical of these transactions. $25,000 per acre is the market and the value we put on the lot. The Trust established the market. When I spoke with Ms. Gillum, she did not offer an adjustment to the proposed value.

Ms. Gillum said she sent an email dated June 26, 2015 with a potential adjustment to the value. She spoke with an appraiser in town who had worked with several conservation easements. For all 12 properties they had purchased they had bought the full development rights and underlying value of the conservation lot. If a landowner tried to sell it to us as a conservation lot SEAL Trust would not pay that full amount. A fully restricted property would be worth 70-90% less or reduced in the extinguishment of development rights. There are 1600 land trusts across the country and that is a standard reduction in value and accepted by the IRS. Mr. Sahnow said he had not received her email.

Mr. Epstein said that if the error was not made, the property would have recorded in December, and she was stating the assessment would have been different on the first of January.

Ms. Potter said not necessarily. She met with the state association of assessors recently and had discussed the issue of land trusts and conservation easements. All conservation easements have a value and depending on the restrictions in place and the type of property, the value will differ. There are even private homes that have conservation easements on them which didn't change the value because there was no further improvement to be done on the lot. Properties along the Mendenhall Peninsula had a limit to the way they could be developed to begin with, no building permits had been issued and essentially there was no change to the property with the conservation status. The original owner received compensation for the property, and transferred that into a trust in which it will essentially remain the same. To diminish the value it is dependent upon the level of restriction, the type of property and whether or not the original value would be and where it would be taken. Conservation easements on wetlands are about a standard rate of 30% of full market value of the property on Class A wetlands. Regarding easements in general, there is an optional exemption the state offers to municipalities to adopt to partially or totally exempt land trust property. CBJ had been exempting the property because it was the typical rule that once the property was acquired by the Trust, it would transfer the property to the municipality. I have confirmed with the CBJ Law Office that CBJ did not adopt an exemption policy and up to date, all of the parcels have received an exemption once the SEAL Trust took them over, and that was an error. These lots are taxable and have not received a tax bill for several years. It was taxable because it was not owned by SEAL Trust on January 1.

Mr. Epstein clarified with Mr. Sahnow that the lot was all accreted land and that the owners Garrard and Kartchner were not appealing the value.

Ms. Sheinberg said the map on page 8 was unclear and not matched to the tables provided with values. Mr. Sahnow explained the difficulties of explaining the sliding scale of values and most of the SEAL Trust properties were exempt. Ms. Sheinberg noted that CBJ protocol was to exempt trust land and Mr. Sahnow said that was correct, but the Trust did not own the lot on January 1. Ms. said on December 12, the conservation lot was recorded on the deed and changed the value of the property even though the transaction was not able to be completed until January; it was part of the same transaction. She said that was the value as of January 1, once the restriction was in place. This action sets a precedent for what these lots are worth if we are going to be paying taxes on those lots in the future.

Ms. Gillum read a portion of the email she said she sent the Assessor in June, 2015, "…In terms of the value of the property before the conservation lot was put into place, the original lot, before accretion, was 100,363 square feet, while the accretion land claimed added an additional 196,542 square feet. The area is zoned D-1 with a minimum lot size of 36,000 square feet. The minimum lot depth is 150 feet and width is 150 feet. However, the planning commission frequently grants

variances to lot width and depth with long narrow lots that are large and can't meet these requirements. The other requirement is 30 feet of road frontage on a maintained right-of-way, which could easily be developed from lot 1. A surveyor would need to determine the best lot configuration and full range of options but a reasonable guess, given the size of the lot and the 234 ft. width of lot 1 on the road,…is that the landowner could have gotten at least 2 – 3 lots and 2 – 3 homes with accessory apartments, studios, garages, and thus the higher price they agreed to pay for the property. Now with that the conservation lot is in place, the development is limited to pathways and a viewing shelter and there is really no comparison in value between the two options even if the landowner was only able to get 2 lots out of lot 2…"

Mr. Kalwara asked Ms. Gillum if her claim was that the error made by the assessor was that the value was excessive at $87,000. Ms. Gillum said yes, and said she estimated the value by stating that the unrestricted property was appraised at about $25,000 and if 80% was reduced based on a typical 70-90% national reduction, it would be roughly $6,000 an acre, or $21,000. She said she offered this value as an adjustment in the email she sent. She said she wanted the conservation lot in place as of January 1 to be recognized in the value of the property.

Mr. Sahnow said on January 1, the owner was expecting the transaction to result in roughly $25,000 per acre. The buyer regularly participates in transactions at that rate, everyone understanding that there is a conservation lot already applied to this lot. When you have an informed and willing seller and buyer regularly engaging at a certain price point, that is the market. To say now that I own it, it is worth less, because no one else will pay me what I paid for it.

Mr. Epstein asked Mr. Sahnow if he was saying the recording of the conservation lot was a moot point because the parties agreed to a value of $25,000 an acre. Mr. Sahnow said yes, and that is a typical value of this type of transaction.

Ms. Gillum said SEAL Trust was not setting a market for conservation lots; they were compensating the land owner accordingly. SEAL Trust gets an appraisal done for every one of the parcels purchase and they base their price to purchase the unrestricted piece of land based on whatever the appraiser valued the lot at. Once it was restricted, as part of a single transaction, the property value is no longer what it was appraised for and we are only completing the agreement. We would only be willing to pay $5 – 6,000 an acre for restricted lots. Ms. Gillum said if the sale did not happen, the previous owners would be in contesting the value of the property as it lost value when the deed restriction was put on it.

Ms. Potter said that state statute required that there was an annual process for determining a lots conservation value and a portion of the property in question has buildable property. Owners of accreted land can sell the land at full price and that land closer to the wetlands does not have a buildable value to begin with and the wetlands reduce the value. The Assessor has a standard of $25,000 per acre for properties in that area as far as determining it on that land when the conservation easement is put in place. The portion that was developable is worth more than $25,000 per acre.

Discussion continued on the matter.

MOTION, by Kalwara, grant the appeal, and to request a no vote for the reasons provided by the Assessor, which was seconded by Sheinberg.

Mr. Kalwara voted no and said he accepted the assessor's arguments and the January 1 assessment stood.

Mr. Epstein voted no and said the assessor stated that this parcel was treated no differently than any other similar parcels and always appraised on market value. It was an appropriate assessment on January 1, whether the deed restriction was recorded or not. He did not see proof of inequality, excessive, improper or undervalued assessment. The appellant had not provided the burden of proof otherwise.

Ms. Sheinberg voted no, and said the same rules at play have been applied here. If the appellant provided information that let the Board understand it was excessive, as was presented orally, that would be important for the Board to see in the packet and the Assessors could benefit from the information. The assessor stated that the deed restriction was taken into consideration within the assessment.

The appeal was denied.

Ms. Sheinberg said that the state property tax law does give the CBJ the ability to exempt properties in trust status and she would like to see the city adopt that law because she felt it was good policy. Ms. Potter said that most of the municipalities tax trust land.

V. Late Filed Appeals – None.

VI. Adjournment

There being no further business to come before the Board of Equalization, the meeting adjourned at 6:10 p.m.

Submitted by Laurie Sica, Municipal Clerk