



**\*\*RESCHEDULED\*\***

**BOARD OF EQUALIZATION HEARING DATE**

**Wednesday, May 27, 2026 10:00 AM**

May 6, 2026

BURKE, TOBY A  
51135 BUOY AVENUE  
KENAI, AK 99611-8753

KENAIBIRDER@GMAIL.COM

RE: Parcel No(s): 05514036  
Owner of Record: BURKE, TOBY  
Appellant: BURKE, TOBY A

**HEARING DATE:** Due to the Board of Equalization's schedule, the referenced appeal has been rescheduled to be heard by the Board of Equalization to **Wednesday, May 27, 2026 at 10:00 AM**

PLEASE NOTE: Hearing dates may change depending on the Board of Equalization's schedule. If your hearing date is rescheduled, that will not change the evidence due date noted below.

**EVIDENCE DUE DATE:** 5:00 p.m. on **Wednesday, May 6, 2026.**

**PRE-HEARING REQUESTS AND MOTIONS:** Pursuant to KP 5.15.060(C), any pre-hearing request or motion, except for a request for an extension of time under KP 5.15.040, must be submitted to the Clerk in writing no later than seven business days before the scheduled hearing. The non-moving party will have three business days to respond to any request or motion filed with the Clerk. Any request or motion or response thereto must be accompanied by a certificate of service certifying that a true and correct copy of the filing was served on the other party to the appeal by electronic service if the party consents to email service, personal service, or U.S. mail delivery and provide the email or mailing address that was served.

**REMOTE PARTICIPATION REQUESTS:** KP 5.15.060(E) provides a party may appear by remote participation (via Zoom). The request must be received by the borough clerk no later than 15 days before the hearing.

Michele Turner, MMC  
Borough Clerk  
micheleturner@kpb.us

**APP001**



**BOARD OF EQUALIZATION HEARING DATE**  
**Thursday, May 21, 2026 10:00 AM**

April 24, 2026

BURKE, TOBY A  
51135 BUOY AVENUE  
KENAI, AK 99611-8753

KENAIBIRDER@GMAIL.COM

RE: Parcel No(s): 05514036  
Owner of Record: BURKE, TOBY  
Appellant: BURKE, TOBY A

**HEARING DATE:** The referenced appeal is scheduled to be heard by the Board of Equalization on **Thursday, May 21, 2026 at 10:00 AM**

PLEASE NOTE: Hearing dates may change depending on the Board of Equalization's schedule. If your hearing date is rescheduled, that will not change the evidence due date noted below.

**EVIDENCE DUE DATE:** Pursuant to KP 5.15.060(B) any evidence or documentation you intend to use during the hearing **MUST** be **received** by the Borough Clerk no later than 5:00 p.m. on **Wednesday, May 6, 2026**. Your evidence may be mailed, e-mailed, hand delivered or faxed. Late filed evidence will be denied.

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Michele Turner, MMC  
Borough Clerk  
micheleturner@kpb.us

**Tax Year 2026**  
**Real Property Assessment Valuation Appeal**  
**Kenai Peninsula Borough**  
**Office of the Borough Clerk**

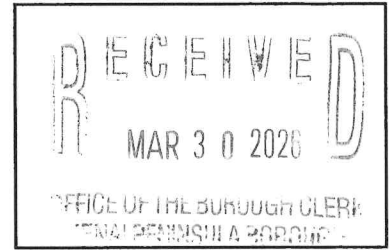
144 N. Binkley Street  
Soldotna, Alaska 99669-7599

Phone: (907) 714-2160  
Toll Free: 1-800-478-4441

Applications must be postmarked or received at the Office of the Borough Clerk or authorized office in Homer or Seward by: **5:00 p.m. on March 30, 2026.**

**The proper filing fee must be included or the appeal will not be accepted.**

**For Commercial Property: Please include Attachment A**



For Official Use Only

Fees Received: \$ 10000 *MTS*

Cash

Check # 2477  
payable to Kenai Peninsula Borough

CREDIT CARDS NOT ACCEPTED FOR FILING FEES

FILING FEE BASED ON TOTAL ASSESSED VALUE PER PARCEL (Each parcel/account appealed must be accompanied by a separate filing fee and form)	
Assessed Value from Assessment Notice	Filing Fee
Less than \$100,000	\$30
\$100,000 to \$499,999	\$100
\$500,000 to \$1,999,999	\$200
\$2,000,000 and higher	\$1,000

Per KPB 5.12.050(B), if the appeal is withdrawn before evidence is due, or if the appellant or agent of the appellant is present for the appellant's hearing before the BOE or participates telephonically pursuant to KPB 5.12.060(T) then the filing fee shall be fully refunded within 30 days after the hearing date.

Account / Parcel Number:	05514036	<b>NOTE: A SEPARATE FORM IS REQUIRED FOR EACH PARCEL.</b>
Property Owner:	Toby and Laura Burke	
Legal Description:	T 5N R 11W SEC 30 Seward Meridian KN 0780162 TISANA Acres	
Physical Address of Property:	51135 Buoy Avenue	

Contact information for all correspondence relating to this appeal:

Mailing Address:	51135 Buoy Avenue, Kenai, AK 99611-8753		
Phone (daytime):	907-335-1558	Phone (evening):	907-335-1558
Email Address:	Kenai.burder@gmail.com		<input checked="" type="checkbox"/> I AGREE TO BE SERVED VIA EMAIL

Value from Assessment Notice: \$ 205,600 Appellant's Opinion of Value: \$ 75,000  
Year Property was Purchased: 2006 Price Paid: \$ 189,000  
Has the property been appraised by a private fee appraiser within the past 3-years? Yes  No   
Has property been advertised FOR SALE within the past 3-years? Yes  No

Comparable Sales:

PARCEL NO.	ADDRESS	DATE OF SALE	SALE PRICE



1. The fixed override placed on my home from 2016 to 2024 should never have been removed being the conditions that necessitated the override, since 2013, have not abated but have only grown more severe and are now acknowledged as a permanent environmental condition. Furthermore, the override should not have merely applied to my home or improvements but to the entire parcel value and even that, in total, is still NOT adequate compensation for the flooding my parcel with Buoy Avenue storm water runoff (SWR), via the egregiously engineered and constructed north and south roadside ditches and the negligent placement of a large drainage gallery adjacent to my residential septic leach field - which permanently compromised my septic system and necessitates an expensive replacement.
2. Since 2006 my parcel has annually been flooded, not from catastrophic overland flow or general groundwater rise but rather from Buoy Avenue SWR. At first, it was due to a complete absence of roadside drainage ditches along the lower western 1/3 of a mile of Buoy Avenue. The newly constructed higher eastern 1 mile of Buoy Avenue ditches dead ended at the frontage of my property line. Later SWR flooding came via roadside drainage ditches designed to irresponsibly and illegally percolate the majority of their SWR loads in place within a residential subdivision already suffering from elevated groundwater table rather than responsibly and legally conveying them beyond Buoy Avenue.
3. The existing Buoy Avenue south side ditch was not constructed, in 2014, as engineered. Though it was engineered for placement of a single 24" culvert at each driveway intersection, only 18" culverts were placed in their stead when it was determined buried utilities were too shallow for placement of the 24" culverts. When I learned of this I explicitly requested the RSA place two paired 18" culverts so as not to reduce designed ditch flow capacity, as two 18" culverts have the very same capacity as a single 24" culvert. The RSA declined my request replying single 18" culverts would be more than sufficient. They did not provide any technical justification. By failing to place the engineered paired 18" culverts where the highest flows occur the capacity of the ditch to move SWR during peak flows was reduced by 50%, making it prone to the overflows we experience nearly annually. Confoundingly, the two lowest and most western driveway intersections, that see the lowest SWR volumes along the length of Buoy Avenue and have the fewest days of SWR inundation, were both given paired 18" culverts.
4. Since the south side ditch was constructed in 2014 several additional SWR flows have been added to it. A north side ditch has been added to Buoy Avenue with its entire SWR flow being directed to the south side ditch via four cross culverts, all pitched to the south. Also, the neighboring Tiller Avenue and Farmstead Street were ditched with their entire SWR loads being directed to Buoy Avenue's south side ditch.
5. Consequently, Buoy Avenue's south side ditch has been forced to accept evermore SWR flows even though it does not have the engineered capacity to do so. As a result, not only are SWR flows greater in volume, but most notably, the period of flows is now almost constant most years, outside of the coldest winter months.
6. A roadside drainage gallery (6' deep and 60' long) was dug in front of my property in the roadside ditch to enhance percolation of SWR into roadside sediments in 2008. This gallery was placed only 110' from my septic leach field against my vehement protests. The construction of this drainage gallery was in direct violation of Borough Code 14.06.170 (Roadside Construction Standards). This standard explicitly states that SWR must be drained externally to "natural drainage courses, ditches or waterways, or other man-made drainage courses". It does not provide for internal drainage such as percolation galleries - most especially within close proximity to sensitive residential septic systems, where they are considered wholly inappropriate.
7. This was an especially unwise action taken by the RSA being that it was in an area that has historically suffered from periodic groundwater flooding over the previous decades and it was among residential parcels with leach fields in very close proximity to it. I have previously observed when SWR flow down Buoy Avenue's south side ditch reaching the drainage gallery in front of my property they disappear into the gallery until it and the neighboring sediment are

inundated and saturated and only then flow past my property. Within only hours of the SWR flow entering the drainage gallery, water levels in my leach field steadily rise, hour by hour, until it is inundated.

8. Interestingly, my flooded parcel has not been treated similarly to the nearby parcel 05530007 which flooded but once in 2013. The owners of that undeveloped parcel were inexplicably compensated with not one but two Borough owned parcels at the direction of the Borough mayor and assembly. That “flooded” parcel had no improvements upon it - no home, septic, well, or driveways and suffered no damages yet they were compensated when nothing more than an old barrow pit, a *de facto* duck pond, was flooded by Karluk Avenue’s SWR overflowing its south side roadside ditches. Why have I not received similar, or for that matter, any compensation when my fully developed parcel repeatedly flooded and its leach field has been permanently compromised from Buoy Avenue SWR?
9. By not maintaining existing ditches, such as neighboring Trawling Avenue, and forcing the filling of other externally draining ditches, such as the Yragui Ranch ditches, area parcels are experiencing higher year-round water tables and thus evermore inundated properties. Aggregate SWR outflows from my area have been substantially **REDUCED** by Borough actions - outright incompetence and negligence bordering on malice. Property assessments must reflect this harsh reality - this utter outrage.
10. In the aftermath of 2013 flooding Borough mayors have said they would partner with the AKDOT to increase the conveyance of our area’s SWR underneath K-Beach Road culverts and to Cook Inlet and the Kenai River. To date the capacity has not been increased one iota despite the ardent promises of several mayors and DOT officials. Their lack of due diligence is resulting in inundated properties and reduced property values should reflect that.
11. I have been a resident of Buoy Avenue since July 2006. Since that time the vast majority of homes on or connected to Buoy Avenue were newly built. Despite the construction of all these new “dream” homes our neighborhood has seen a remarkably disproportionately high rate of turnover. When I have spoken to these various neighbors who have decided to move on and their reasons for moving, the universal reason given was that they were tired of fighting the high water and the stubborn inaction of the Borough. They decided to move on and sell their problem to some unsuspecting outsider. Many residents, if not all, on Buoy Avenue have experienced buyer’s remorse. The flooding is a relentless perennial problem with little hope of improvement since the Borough and State are content to thwart any and all meaningful attempts to significantly enhance drainage spearheaded by residents.
12. When I have spoken to prospective buyers and new buyers along Buoy Avenue (one as recently as this February) none were aware that Buoy Avenue had any flooding problems or was prone to such. Sellers do not disclose.
13. In the course of the past two years three new driveways have been constructed along Buoy Avenue. I have been sorely tempted to contact the owners and caution them about building their new dream home on Buoy Avenue. They’ve already made the mistake of buying vacant land there. I only hope I can save them the trouble of throwing good money after bad by compounding their problem by building a \$500K home that they will soon come to deeply regret. I don’t want to tamper with sales, but in good conscience someone needs to tell these buyers they need to reconsider when it comes to building in the Kalifornsky - goodness knows the real estate agents and brokers won’t do it. No real estate agent or broker with a conscience should be encouraging prospective buyers to consider buying or building in the Buoy Avenue area without disclosing its flooding history and lack of efficient Borough drainage - that is, unless they plan on constructing a fish farm.
14. If I were to have appealed the last year’s BOA decision regarding my parcel, would the magistrate not consider the BOA decision arbitrary and capricious being that the conditions that caused the placement of the override in the first place had not abated but actually grown worse?

15. The bottom line: the very wide south side Buoy Avenue ditch along the frontage of my property was not so much engineered to convey the majority of its SWR load swiftly and efficiently out of our residential area to natural water course like the nearby Cook Inlet, so much as to retard the flow and percolate as much of its load into roadside sediments (read roadside parcels) with only the unpercolated excess conveyed beyond Buoy Avenue. Additionally, the north side ditch which is of the more typical narrow "U" or "V" shaped construction effectively dead ends near the frontage of my property on the opposite side of my parcel. Here the north side ditch transitions from a relatively deep ditch to a very shallow ditch which rarely ever carries a SWR load and when it does it is minimal due to its tiny capacity, shallow depth, lack of maintenance and regular obstructions with snow, vegetation, sediments, branches etc. So the SWR in the north side ditch that does not flow immediately to the south side ditch through cross-culverts merely pools across from my parcel until it eventually percolates in to roadside sediments. And of course there is the sizable drainage gallery placed in front of my parcel mentioned previously.
16. So, I have three deliberately flawed engineered SWR designs adjacent to my parcel that enhance SWR percolation into it and neighboring parcels rather than by design convey as much SWR as possible away from Buoy Avenue to natural water courses as mandated by Borough Roadside Construction Standards.
17. I also assert the Borough Lands Department has information, ground elevation data pre- and post- 2013, that demonstrate the greater Kalifornsky area, that has suffered most from severe and protracted groundwater flooding since 2013, has been subjected to significant land subsidence that has significantly altered groundwater flows and levels. This area is underlain by huge oil and gas reservoirs under active management. The land subsidence in this area is most likely due to oil and gas activities within these reservoirs, seismic activity, or a combination of the two. The Borough has not publicized this data especially among flood-effected Kalifornsky residents but instead has repeatedly suggested the perennially elevated groundwater levels experienced by Kalifornsky residents are most likely due to climate change. I firmly believe the Borough has data that refutes their climate change premise and instead supports the more likely cause - land subsidence. I assert that the Borough has not acted in good faith, has not been transparent with its citizens and has deliberately deceived them and more specifically the flood-affected residents of the greater Kalifornsky area.
18. The Borough and the state are playing the climate change card rather than revealing the truth, admitting the preponderance of flooding problems experienced by the greater Kalifornsky area are most likely due to relatively recent (pre-2013) land subsidence. Interestingly enough, both entities have fought tooth and nail to stop flood-affected residents from defending their properties from the degradations of persistent flooding. At nearly every turn they say the problem is too complex and thus advocate for the *status quo* - no effective ditching, no effective drainage, just small ineffective "window dressing" projects - poor conceived drainage efforts that convey only the smallest of volumes of SWR.
19. KPB needs to immediately write down my total assessed parcel to zero for 2026, and perpetually, and retroactive to 2006, or compensate me monetarily with a lump sum for damages suffered since 2006 due their negligent management of SWR along Buoy Avenue and other adjacent areas that contribute to the inundation of my parcel and the handicapping of my large family's life.