

MEMORANDUM

TO: Pete Sprague, Assembly President

Members, Kenai Peninsula Borough Assembly

FROM: Gary Superman, Assembly Member

DATE: December 4, 2003

SUBJECT: Ordinance 2003-43, authorizing the assessor to assess low-income housing tax credit projects based on restricted rents

As written, Ordinance 2003-43 amends the code to require that all property in the borough that qualifies for low-income housing credit under 26 U.S.C. § 42 shall be valued based on the income derived from the property instead of the estimated price that the property would bring in an open market. Alaska Statute 29.45.110, the authority for this valuation method, also authorizes the assembly to exempt property that first qualifies for the low-income housing credit on or after January 1, 2001, from the requirement that it be valued based on actual income derived from the property. If the assembly exempts such property from that required valuation method, the statute provides that the assembly may determine which of the two valuation methods would be used on low-income housing credit property on a parcel-by-parcel basis.

The following amendment provides for this parcel-by-parcel approach, which I believe gives more flexibility to address unique circumstances that may warrant using one approach instead of the other.

Amend the title as follows:

AN ORDINANCE [AUTHORIZING THE ASSESSOR TO ASSESS] EXEMPTING LOW-INCOME HOUSING TAX CREDIT (LIHTC) PROJECTS, QUALIFYING ON OR AFTER JANUARY 1, 2001, FROM THE REQUIREMENT THAT ASSESSED VALUE BE BASED ON RESTRICTED RENTS

Amend the final whereas clause as follows:

WHEREAS, that in accordance with A.S. 29.45.110(d)(2), the Kenai Peninsula Borough Assembly finds that [VALUING] properties that first qualify for a low-income housing credit on or after January 1, 2001, should be exempt from the requirement that all such properties' assessed value be based on the actual income derived from the property, [BEST SERVES THE INTERESTS OF THE BOROUGH BY POTENTIALLY INCREASING THE AFFORDABILITY AND AVAILABILITY OF SUCH HOUSING] and that the assembly shall determine by parcel whether such property shall be valued based on restricted rents or the estimated price it would bring on the open market;

Please amend Section 1 as follows:

SECTION 1. That KPB 5.12.085 is hereby enacted to read as follows:

5.12.085. Method of determining the full and true value of property that qualifies for a low-income housing credit under 26 USC 42.

A. In accordance with AS 29.45.110(d)(1), the full and true value of all property within the Kenai Peninsula Borough[, REGARDLESS OF THE DATE IT] that first qualifies for low-income housing credit under 26 USC 42 before January 1, 2001, shall be based on the actual income derived from the property and may not be adjusted based on the amount of any federal income tax credit given for the property.

B. Pursuant to AS 29.45.110(d)(2), the full and true value of all property within the Kenai Peninsula Borough that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, shall be exempt from the requirement that the value be based on the actual income derived from the property. For property that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, the assembly may determine, by parcel, whether the property shall be assessed based on the estimated price that it would bring in an open market and under the then-prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels, or on the basis of actual income derived from the property without adjustment based on the amount of any federal income tax credit given for the property. Once the manner of assessment of the property has been determined under this subparagraph, the assembly may not change the manner of assessment of that parcel of property if debt relating to the property incurred in conjunction with the properties qualifying for the low-income housing tax credit remains outstanding.

C. To secure an assessment [UNDER] based upon the actual income derived from the property under this section, an owner of property that qualifies for the low-income housing credit shall apply to the assessor before May 15 of each year in which the assessment is desired. The property owner shall submit an application on forms prescribed by the assessor and shall include information that may reasonably be required by the assessor to determine the entitlement of the applicant. All such applications shall be forwarded to the assembly by resolution for a determination of the assessment manner.