



**DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT**
Division of Community and Regional Affairs

Board of Equalization (BOE) Training
Office of the State Assessor
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Director Sandra Moller

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The Board of Equalization (BOE) and the Appeal Process



**Prepared by:
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Taxpayer Confidence in a Fair Property Tax

- **Listen to the case presented**
- **Decide based on the evidence presented**
- **Establish a record that supports the decision**
- **Ask questions on the record**
- **Follow due process**



Citizen interaction with Government

Property tax system

- Assessment
- Tax billing and collection

Annual interaction

Meaningful and productive

Opinions and observations given consideration



Mass Appraisal

“The process of valuing a group of properties as of a given date, using standard methods, employing common data, and allowing for statistical testing.”

USPAP Standard 6

Establish:

What group of properties?

What are the standard methods?

What is the common data?

The results of the statistical testing?



BOE - Points of Discussion

- **What is the assessment process?**
- **What is the role of the BOE?**
- **What is expected of the BOE?**
- **What is an administrative hearing?**
- **How should an appeal be decided?**
- **What is expected of the Assessor?**
- **What is the responsibility of the Appellant?**



Administrative Hearing

Adjudicator

- Judge
- Jury
- Cross-Examiner

The Board of Equalization fulfills all three roles in the hearing of a real or personal property appeal.



Judicial Process

You are a judge!

Think like a judge!

Act like a judge!

Presume decision will be reviewed by a higher court!

Appellate court does not want to substitute judgment on facts.

Follow due process and existing law.



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)

The BOE listens to appeals, and if necessary, adjusts the assessment of individual properties, higher, or lower.

Statutory mandates for filing an appeal and scheduling a hearing at the BOE may be found at AS 29.45.190



The Appeal Hearing

AS 29.45.210(b) - Hearing

- The Appellant bears the burden of proof
- A successful appeal must establish that valuation is unequal, excessive, improper or undervalued based on facts stated in a valid written appeal or proven at the appeal hearing.



Unequal, Excessive, Improper

The interpretation of meaning from the court decisions:

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.

UNDERVALUED – Rare, but yes it does happen from time to time.



Unequal, Excessive, Improper

- **Currently no definition in statute or municipal code**
- **Assessment professional standards provide specific definitions that are measurable**
- **Ratio of assessed value to sale price and dispersion from the median sale price**
- **Uniform use of an accepted method of valuation**



Role of The Board

By statute, is comprised of assembly members; or

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**
- **Listens to presentations by the assessor and the appellant, asks questions, DOES NOT present its own evidence**
- **Makes a determination based upon the facts presented at the hearing**



Role of the Assembly/Council

The assembly/council acts as the Board of Equalization unless it appoints a BOE made up of individuals that are knowledgeable of Real Property Value and the local real estate market

The BOE is the interpreter/finder of facts

- ***only facts presented at the hearing***



Role of the Appellant

The appellant bears the burden of proof:

- **This is because the appellant is the one seeking a change of the status quo**
- **The appellant must present salient facts, not rumor, not anecdotes, no vague innuendos, but facts, about the property that supports the allegation of an assessment that has been made in error**
- **The appellant needs to convince you, using those facts, that a mistake has been made in the valuation of the property**



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 (description) of all property**
- **Valuation of all taxable (real & personal) property**
- **Notification to all property owners of values**
- **Appearance before the BOE to defend assessments**



Role of the Assessor (cont.)

Establish a foundation proving:

- **Equal treatment of all taxpayers**
- **Uniform assessed values**
- **Proper use appraisal methods**

(See AS 29.45.210)



Role of the Assessor (cont.)

Goal is to achieve uniform assessments, consequently, will use “mass appraisal” techniques, not fee appraisal techniques.

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.



Assessor's Appeal Response

Explain the case

Present evidence of:

- equity in assessment
- relationship to market value
- correct application of appraisal method



The Appeal

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

Remember: The Appellant, not the Assessor bears the burden of proof

BUT: Once the Appellant meets this burden, then the burden falls to the Assessor to rebut the evidence presented

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 Hearing

Rules should be set down in writing and known to all prior to the hearing.

- **Adjudicative hearing**
- **On the record**
- **Based on law**
- **Based on evidence and argument presented at the hearing**
- **Potential judicial review by a higher court**



Due Process

- 1. Prior notice and hearing**
- 2. Trial-type hearing (on record)**
- 3. Right to counsel**
- 4. Impartial decision-makers**
- 5. Findings of fact and conclusions of law**



Evidence and Argument

- **Both parties have the opportunity to present evidence and argument to support their position.**
- **Both parties have an opportunity to see the evidence and argument prior to the hearing.**
- **Both parties have the opportunity to rebut the evidence and argument presented at the hearing.**
- **Evidence (more to do with presentation of fact)**
- **Argument (more to do with interpretation of law)**



Finding of Facts/Conclusions of Law

Findings of Fact-

Determinations setting forth all the facts found to be true at the hearing. Facts being those elements of evidence provided by either the appellant or the assessor that the Board found to be decisive and/or significant.

Conclusion of Law-

The conclusions reached based on the legal premises for the decision.



Finding of Facts/Conclusions of Law (cont.)

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 court's 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.



Appeal Review Law, Fact, and Discretion

Legal authority, correct application of law

Substantial evidence test:

- Whole record
- Relevant evidence for and against

Abuse of discretion test:

- Arbitrary and Capricious – willful and unreasonable action without consideration or in disregard of facts or law or without determining principle



Late Filed Appeals

The BOE may allow a late filing if the owner was unable to comply with the 30 day appeal period.

The BOE should have, in place, written criteria of why someone may file late appeal.

Be consistent with approval/denials with applications of late file requests.

Assessor's office mails notification to last known address or owner.

A sale of property that occurs after the mailing of notice does not negate the original 30 day filing period, because notice was made.



Alaska Statutes

AS 29.45.110 through AS 29.45.210 provide the legal authority of the Board of Equalization to hear appeals of an alleged error in valuation. See appendix attached to this presentation for a copy of these statutes as of 2017.

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 other disputed issues.



Some (Bad) 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 BOE “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 unless the burden of proof has been met by the appellant. Then make a determination of value based upon the information provided or you may also remand the appeal back to the assessor
- **DISASTERS** – All assessments are made as of January 1 of the tax year. Post-Assessment date property tragedies cannot be changed by the BOE. See AS 29.45.230 provided in the appendix.



BOE "Do's"

- **Do show both the appellant and the assessment staff the courtesy of your attention, discuss weight given to issues**
- **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 Assessor's staff are professional appraisers who have been to schools on appraisal standards and techniques; the appellant, typically, has not**



Summary

The BOE sits in review of the assessments prepared by the Assessor

The BOE does not make a new appraisal

The BOE should make a determination of value based upon issues presented at the hearing

Your determination should include all findings of fact that led to the decision by the BOE



THANK YOU

FOR YOUR TIME

AND YOUR WILLINGNESS

TO SERVE ON THE BOE



Appendix A: Alaska Statutes

Sec. 29.45.110. Full and true value.

(a) The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.060, and 29.45.230. The full and true value is the estimated price that the property 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.

(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the governing body.

(c) In the case of cessation of business during the tax year, the municipality may provide for reassessment of business inventories using the average monthly method of assessment for the tax year rather than the value existing on January 1 of the tax year, and for reduction and refund of taxes. In enacting an ordinance authorized by this section, the municipality may prescribe procedures, restrictions, and conditions of assessing or reassessing business inventories and of remitting or refunding taxes.

(d) The provisions of this subsection apply to determine the full and true value of property that qualifies for a low-income housing credit under 26 U.S.C. 42:

(1) when the assessor acts to determine the full and true value of property that qualifies for a low-income housing credit under 26 U.S.C. 42, instead of assessing the property under (a) of this section, the assessor shall base assessment of the value of the property on the actual income derived from the property and may not adjust it based on the amount of any federal income tax credit given for the property; for property the full and true value of which is to be determined under this paragraph, to secure an assessment under this subsection, 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 the application on forms prescribed by the assessor and shall include information that may reasonably be required to determine the entitlement of the applicant;

(2) the governing body of the municipality shall determine by ordinance whether the full and true value of all property within the municipality that first qualifies for a low-income housing credit under 26 U.S.C. 42 on and after January 1, 2001, shall be exempt from the requirement of assessment under (1) of this subsection; thereafter, for property that first qualifies for a low-income housing credit under 26 U.S.C. 42 on and after January 1, 2001, and that, by ordinance, is exempt from the requirement of mandatory assessment under (1) of this subsection, the governing body

(A) may determine, by parcel, whether the property shall be assessed under (a) of this section 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, as authorized by (1) of this subsection; and

(B) may not, under (A) of this paragraph, change the manner of assessment of the parcel of property if debt relating to the property incurred in conjunction with the property's qualifying for the low-income housing tax credit remains outstanding.



Appendix A: Alaska Statutes

Sec. 29.45.120. Returns.

(a) The municipality may require each person having ownership or control of or an interest in property to submit a return in the form prescribed by the assessor, based on property values of property subject to an ad valorem tax existing on January 1, except as otherwise provided in this chapter.

(b) The assessor may, by written notice, require a person to provide additional information within 30 days.

Sec. 29.45.130. Independent investigation.

(a) The assessor is not bound to accept a return as correct. The assessor may make an independent investigation of property returned or of taxable property on which no return has been filed. In either case, the assessor may make the assessor's own valuation of the property subject to an ad valorem tax and this valuation is prima facie evidence of the value of the property.

(b) For investigation, the assessor or the assessor's agent may enter real property during reasonable hours to examine visible personal property and the exterior of a dwelling or other structure on the real property. The assessor or the assessor's agent may enter and examine the interior of a dwelling or other structure or the personal property in it only (1) if the structure is under construction and not yet occupied; (2) with the permission of a person in actual possession of the structure; or (3) in accordance with a court order to compel the entry and inspection. The assessor or the assessor's agent may examine all property records involved. A person shall, on request, furnish to the assessor or the assessor's agent assistance for the investigation and permit the assessor or the assessor's agent to enter a dwelling or other structure to examine the structure or personal property in it during reasonable hours. The assessor may seek a court order to compel entry and production of records needed for assessment purposes.

(c) An assessor may examine a person on oath. On request, the person shall submit to examination at a reasonable time and place selected by the assessor.

Sec. 29.45.140. Violations; authorization to prescribe penalties by ordinance.

For knowingly failing to file a tax statement required by ordinance or knowingly making a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind, or value of property subject to taxation with intent to evade the taxation, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 or imprisonment for 90 days.

Sec. 29.45.150. Reevaluation.

A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the municipality directing a systematic reevaluation of all taxable property in the municipality over the shortest period of time practicable, as fixed in the resolution or act.



Appendix A: Alaska Statutes

Sec. 29.45.160. Assessment roll.

- (a) The assessor shall prepare an annual assessment roll. The roll must contain
- (1) a description of all property subject to an ad valorem tax;
 - (2) the assessed value of all property subject to an ad valorem tax;
 - (3) the names and addresses of persons with property subject to an ad valorem tax.
- (b) The assessor may list real property by any description that may be made certain. Real property is assessed to the record owner. The district recorder shall at least monthly provide the assessor a copy of each recorded change of ownership showing the name and mailing address of the owner and the name and mailing address of the person recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal record owner. If the property owner is unknown, the property may be assessed to "unknown owner". An assessment is not invalidated by a mistake, omission, or error in the name of the owner, if the property is correctly described.

Sec. 29.45.170. Assessment notice.

- (a) The assessor shall give each person named in the assessment roll a notice of assessment showing the assessed value of the person's property that is subject to an ad valorem tax. On each notice is printed a brief summary of the dates when taxes are payable, delinquent, and subject to penalty and interest, and the dates when the board of equalization will sit.
- (b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing.

Sec. 29.45.180. Corrections.

- (a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll before the board of equalization hearing.
- (b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board of equalization.



Appendix A: Alaska Statutes

Sec. 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.

Sec. 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.

Sec. 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.



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Appendix A: Alaska Statutes

Sec. 29.45.230. Tax adjustments on property affected by a disaster.

- (a) The municipality may by ordinance provide for assessment or reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a disaster.
- (b) An assessment or reassessment under this section may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that losses exceed \$1,000. A reduction of taxes may be made only on losses in excess of \$1,000 for the remainder of the year following the disaster. On reassessment, the municipality shall recompute this tax and refund taxes that have already been paid.
- (c) The municipality shall give notice of assessment or reassessment under this section and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal must be filed with the board of equalization within 10 days after notice of assessment or reassessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply.
- (d) In an ordinance authorized by this section, the municipality shall establish criteria for the reduction of taxes on property damaged, destroyed, or otherwise reduced in value as a result of disaster, and may, consistent with this section, prescribe procedures, restrictions, and conditions for assessing or reassessing property and for remitting, refunding, or forgiving taxes.
- (e) [Repealed, § 3 ch 1 SLA 2004.]