



August 31, 2011

Final Investigative Report Concerning Ombudsman Complaint 2011-0033

COMPLAINT

On March 9, 2011, a citizen was referred to the Municipal Ombudsman's Office by his Assembly representative, stating he purchased a \$17,000 outdoor wood fired boiler on June 20, 2009. On June 23, 2009, the Assembly passed an ordinance, which became effective on July 1, 2009, that imposed certain restrictions on outdoor wood fired boilers that made this citizen's boiler illegal.

FINDINGS

The Ombudsman's Office worked with the Municipal Department of Health and Human Services (DHHS), Air Quality Division, as well as this citizen's Assembly representative, to create a waiver for citizens who purchased wood fired boilers prior to the effective date of the ordinance. The Anchorage Assembly passed the waiver provision on July 12, 2011. The citizen applied for and was granted the waiver by the Director of DHHS. **Since there became an adequate remedy for this citizen's concern after passage of the waiver provision, this complaint was closed.**

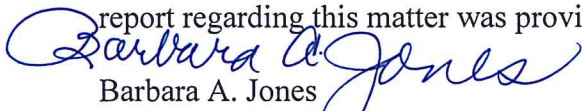
ANALYSIS AND CONCLUSION

On June 24, 2009, amendments were proposed to A.M.C. 15.35.105 to regulate outdoor wood fired boilers. The amendments regulated particulate emissions, lot size, and stack height, among other matters and applied to outdoor wood fired boilers installed after July 1, 2009. Wood fired boilers installed before July 1 were not required to meet the new specifications.

When this citizen purchased his wood fired boiler on June 20, his boiler appeared to meet the requirements as of that date; but since he did not install it before the effective date on July 1, the citizen was required to comply with the new requirements. Similar to this citizen, there may exist a small subset of citizens who may have purchased wood fired boilers prior to the public hearing date, but had not installed the boilers before the effective date. Thus, in consultation with DHHS, a waiver provision was proposed to be added to A.M.C. 15.35.105, which allows the Director of DHHS to waive the requirements of the code in certain circumstances.

The Assembly passed the waiver provision on July 12, 2011. This citizen applied to the Director of DHHS for the waiver and it was granted. **Because the citizen applied for and was granted the waiver, this matter is closed.**

If you object to the Ombudsman's decision to decline or discontinue this investigation or review, you may file a grievance with the Ombudsman as specified in A.M.C.R. 2.60.006. A preliminary report regarding this matter was provided to the division and department.


Barbara A. Jones
Municipal Ombudsman