

See AO 2003-159(S)

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Finance
For reading: November 18, 2003

ANCHORAGE, ALASKA
AO NO. 2003-159

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.05 SECTIONS
2 RELATING TO THE BOARD OF EQUALIZATION AND CERTAIN PROCESSES, PROCEDURES
3 AND REQUIREMENTS APPLICABLE TO APPEALS OF ASSESSED VALUATIONS OF
4 PROPERTY FOR TAX PURPOSES; PROVIDING FOR MULTIPLE PANELS OF THE BOARD
5 CONSISTING OF A THREE MEMBER QUORUM; COMPENSATION OF THE BOARD
6 MEMBERS; SUBMISSION OF EVIDENCE REQUIRED BY PROPERTY OWNERS; AND THE
7 CONFIDENTIALITY OF CERTAIN EVIDENCE OF COMMERCIAL PROPERTY VALUES
8 AFFECTING COMPETITION.

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10 WHEREAS, it is necessary to streamline and make the processing of pending assessed
11 valuation appeals more efficient before a total rewrite of Title 12 may be accomplished;

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13 NOW THEREFORE, the Anchorage Assembly Ordains:

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15 **Section 1.** Anchorage Municipal Code section 12.05.020 is amended to read:

16 Error in valuation means an estimate of value which is Unequal, Excessive, Improper or Under
17 valued.

18 Property Valuation Appeal Board [OF EQUALIZATION] means the board established by the
19 assembly to sit as a board of equalization, or a panel thereof, to hear appeals of alleged errors in
20 valuation pursuant to AS 29.45.200.

21 Unequal means an intentional or systematic undervaluation of some but not all property in a
22 single class and lacking a conceivable basis that would sustain different valuations of similar
23 properties.

24 Excessive means overvaluation which in legal effect is equivalent to an intention or fraudulent
25 purpose to place an excessive valuation on property.

26 Improper means fraud or the clear adoption of a fundamentally wrong principle of valuation.

27 Under valued means any assessed value which is below the assessed value of similar
28 substitute property in a single class.

29 Appellant means a property owner who is appealing the valuation of the owners property
30 assessment.

31 **Section 2.** Anchorage Municipal Code section 12.05.050 is amended to read:

32 **12.05.050 Property Valuation Appeal Board [OF EQUALIZATION].**

33 A. *Membership; duties; term of office.*

1. Membership. The property valuation appeal board [OF EQUALIZATION] consists of a pool of no less than six and up to fifteen members .[SHALL BE COMPOSED OF SEVEN], not assembly members, appointed by the assembly. There shall be up to five panels established each year. Each panel hearing appeals shall consist of three members. The Assessor shall assign members to a specific panel and schedule the panels for a calendar of hearing dates. The assignment of members to panels and the establishment of a hearing calendar shall be done in consultation with the individual members. Additionally, members may be asked to take the place of regular assigned panel members in the event an assigned panel member is unable to attend a scheduled meeting.
 - a. Procedures. The procedures governing publication of notice, inviting applications, public hearings and balloting and voting by the assembly contained in Subsection 2.70.020 shall apply to the appointment of members of the property valuation appeal board [OF EQUALIZATION].
2. [ALTERNATE MEMBERS. THE ASSEMBLY SHALL APPOINT ALTERNATE BOARD MEMBERS. THE ALTERNATE MEMBERS SHALL BE NAMED BY THE BOARD'S PRESIDING OFFICER, AS THE NEED ARISES, TO SERVE AS BOARD MEMBERS DURING THE ABSENCE OR DISABILITY OF REGULAR MEMBERS] .
2. [3.] Qualifications of members. Members and alternate members shall be appointed on the basis of their general business expertise and their knowledge or experience with quasi-judicial proceedings. [IN REAL AND PERSONAL PROPERTY APPRAISAL, THE REAL ESTATE MARKET, THE PERSONAL PROPERTY MARKET, AND OTHER FIELDS RELATED TO THEIR FUNCTIONS AS BOARD MEMBERS.]
3. [4.] Duties. The board shall only hear appeals for relief from an alleged error in valuation [MAY DETERMINE EQUALIZATION] on properties brought before the board by an appellant[s] [OR BY ONE OR MORE MEMBERS OF THE BOARD]. A panel hearing a case must first make a determination that an error in valuation has occurred and identify whether the error in valuation is one or more of the following: unequal, excessive, improper or under valuation before it may consider an adjustment to the assessed value. Following the determination of an error in valuation the panel [BOARD] may alter an assessment of property [A LOT ONLY PURSUANT TO AN APPEAL FILED AS TO THE PARTICULAR LOT.] only if there is sufficient evidence of value in the record. Lacking sufficient evidence on the record the case shall be remanded to the assessor for reconsideration. A hearing by the board may be conducted only pursuant to an appeal filed by the owner of the property as to the particular property [LOT].
4. [5-] Compensation of members. Compensation for members shall be \$25.00 [50.00] per [DAILY SESSION] hour during board meetings or hearings, total yearly compensation shall not exceed \$4,000 per member.
5. [6.] Term of office. Terms of office shall be for three years and shall be staggered so that approximately [AS NEARLY AS POSSIBLE] one-third of the terms [FOR MEMBERS AND ALTERNATES] shall expire each year on June 30 [MARCH 16]. The term of all current board members shall immediately expire upon passage of this ordinance. The Assembly shall appoint new members to the board.

Approximately one-third of the appointments shall be for an initial one year term.
Approximately one-third of the appointments shall be for an initial two year term.
Approximately one-third of the appointments shall be for an initial three year term.

B. *Chair[MAN].* [THE BOARD ANNUALLY SHALL ELECT A MEMBER TO SERVE AS ITS CHAIRMAN, THE CHAIRMAN MAY CALL MEETINGS OF THE BOARD AND SHALL EXERCISE SUCH CONTROL OVER MEETINGS AS TO ENSURE THE FAIR AND ORDERLY RESOLUTION OF APPEALS]. Each panel shall elect its own presiding officer to act as the chair for the panel and shall exercise such control over meetings as to ensure the fair and orderly resolution of appeals. In the absence of the elected presiding officer the panel shall appoint a temporary presiding officer at the beginning of a regular meeting. The presiding officer [HE] shall make rulings on the admissibility of evidence and shall conduct the proceedings of the panel [BOARD] in conformity with this chapter.

(AO No. 49-75; AO No. 78-69; AO No. 86-30; AO No. 86-211(S-1); AO No. 87-44; AO No. 92-109; AO No. 94-26, § 1, 3-24-94; AO No. 95-148, § 3, 7-25-95)

Editor's note: Former subsection 12.05.050.C. was recodified as 12.05.055. Former subsections 12.05.050.C.--F. was recodified as § 12.05.053.

Section 3. Anchorage Municipal Code section 12.05.053 is hereby amended to read as follows:

12.05.053 Procedures.

A. *Preparation of appeal packet.* [DUTIES OF MUNICIPAL ASSESSOR]. The municipal assessor shall furnish a panel of the property valuation appeal board [OF EQUALIZATION] with copies of the appellants appeal and a summary of assessment data relating to the appeal [SHORT NARRATIVE OF THE ASSESSOR'S POSITION]. [THE ASSESSOR SHALL CERTIFY THAT MATERIAL FURNISHED TO THE BOARD UNDER SECTION 12.05.053 IS TRUE AND CORRECT, AND] Such material shall be considered as part of the official testimony the board may hear. The assessor or his representative may supplement the record by additional testimony, documentation and exhibits in accordance with subsection C.7 of this section.

B. *Quorum and voting.*

1. *Quorum.* A quorum for hearing appeals shall consist of three [FIVE] panel members.
2. *Voting.* The granting of any appeal or part thereof shall require the concurring vote of two members of the panel. [AT LEAST FOUR BOARD MEMBERS]. Any appeal or part thereof which is not granted by the panel shall be considered denied.

C. *Conduct of hearings; decisions.* Except as otherwise provided in this chapter, hearings shall be conducted by [THE BOARD] each panel in accordance with the following rules [ROBERT'S RULES OF ORDER, NEWLY REVISED, SUBJECT TO THE FOLLOWING STANDARDS]:

1. *Record.* The assessor [MUNICIPAL CLERK] shall keep verbatim stenographic records or electronic recordings of the board's proceedings, showing the vote of each member on every question and all of the evidence

presented. The assessor [MUNICIPAL CLERK] shall prepare written minutes for all board proceedings and such minutes shall be signed by the chair [MAN OF THE BOARD AND THE MUNICIPAL CLERK] of the panel.

2. *Counsel.* All parties may be represented by counsel during hearings before the board. On procedural matters the municipal attorney may offer legal counsel to the board in the course of its proceedings. Upon the recommendation of the Municipal Attorney, the board may retain independent legal counsel for a particular matter.
3. *Case number.* Every appeal shall be assigned a case number which shall be read into the record along with the name of the appellant and the tax identification number, at the commencement of [BEFORE] the hearing on that appeal [COMMENCES].
4. *Burden of proof.* The burden of proof rests with the appellant. The only grounds for adjustment of an assessment are unequal, excessive, improper or under valuation based on the facts [THAT ARE] stated in a valid written appeal or proven [PROVIDED] at the appeal hearing in accordance with subsection 7 of this [SUB]section. If the valuation is found to be too low, the board may raise the assessment. The municipality shall make available to the appellant all reasonably pertinent documents requested for presentation of the appeal.
5. *Rules of evidence.* Evidence shall only be presented by the appellant and the assessor or their authorized representative. The board shall not be restricted by the formal rules of evidence; however, the chair [MAN] may exclude evidence irrelevant to the issues appealed. Hearsay evidence may be considered provided that there are adequate guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts. The appellant must submit to the assessor's office all documentary evidence in their possession relevant to the resolution of the appeal. This evidence includes but is not limited to purchase and closing documents, appraisal reports, brokers opinion of value, engineers reports, estimates to repair, rent rolls, leases, and income and expense information. The panel hearing the case must sustain the original assessed value if the relevant evidence is not submitted to the assessor's office within 15 days from the close of the appeal period. The appellant and assessor may agree to an extension of time for the production of evidence.
6. *Order of presentation.* The appellant shall present his evidence and argument first. Following the appellant, the assessor or his representative shall present the municipality's evidence and argument. Each party shall be allowed a total of five minutes to present evidence, and make oral argument unless additional time is permitted by the chair. The appellant may, at the discretion of the chair, make a rebuttal presentation, not to exceed five minutes, directed solely to the issues raised by the assessor. The municipal attorney may question the appellant or the assessor on matters relating to the appeal. The members of the board may ask questions, through the chair[MAN], of either the appellant or the assessor at any time during the

hearing. After both the appellant and the assessor have made their presentations [presented their arguments], each may question the other through the chair [MAN]. The chair may end the questioning and call for a motion from the other panel members.

7. *Witnesses, exhibits and other evidence.* The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing. [ANY DOCUMENTS PRESENTED TO THE BOARD BY EITHER PARTY MUST BE PROVIDED TO THE OPPOSING PARTY AT LEAST SEVEN DAYS BEFORE THE HEARING]. Documents to be submitted as evidence by the appellant [TO THE BOARD] must be filed with the assessor [MUNICIPAL CLERK] no later than 15 days from the close of the appeal period unless the appellant and assessor agree to an extension. If an appellant has refused or failed to provide the assessor or assessor's agent full access to property or records, the appellant shall be precluded from offering evidence on the issue or issues affected by that access and those issues shall be decided in favor of the assessor. [SEVEN DAYS BEFORE THE BOARD HEARING TO BE ADMITTED]. All testimony before the board shall be under oath.

- a. At the request of the appellant, evidence submitted pursuant to subsection C.5 or C.7 of this section relating to the assessed valuation of property used in an income-producing commercial enterprise shall be confidential. The assessor and the appellant may stipulate to facts to be presented to the board provided the assessor has received credible and reliable evidence to establish the facts.

[THE BOARD MAY OBTAIN OR ACCESS OTHER CURRENT ASSESSMENT ROLL AND RELATED ASSESSMENT INFORMATION ON FILE WITH THE ASSESSOR'S OFFICE RELEVANT TO THE APPEAL PROVIDED THE BOARD SHALL GIVE THE APPELLANT AND THE ASSESSOR COPIES OF SUCH INFORMATION AND A REASONABLE OPPORTUNITY TO RESPOND OR COMMENT ON SUCH INFORMATION PRIOR TO THE BOARD'S DECISION.]

8. *Decisions.* At the conclusion of the hearing the panel [board] shall determine, based solely on the evidence submitted, whether the assessment is unequal, excessive, improper or under valued [PROPER]. The panel [board] shall issue findings of fact and conclusions of law clearly stating the grounds upon which the panel [board] relied to reach its decision and advising all parties of their right to appeal the decision to superior court.
9. *Certification.* The panel chair [BOARD] shall certify its decision regarding [FOR] an appeal to the assessor within seven days following its issuance.
10. *Termination of appeal upon agreement between appellant and assessor.* [ON APPROVAL OF AGREED UPON ASSESSED VALUE]. After an appeal to the property valuation appeal board [OF EQUALIZATION] has been filed, [THE ASSESSOR WILL PREPARE A MEMORANDUM TO THE CHIEF FISCAL OFFICER FOR] any [NEW] value which has been [TENTATIVELY] agreed to by the assessor and the appellant, [REQUESTING THE APPROVAL OF THE NEW VALUE. IF THE CHIEF FISCAL OFFICER DOES

NOT APPROVE THE VALUE, THE ASSESSOR SHALL SCHEDULE THE APPEAL FOR A HEARING AND THE MUNICIPAL CLERK SHALL PROPERLY NOTIFY THE APPELLANT. IF THE ASSESSED VALUE AGREED UPON BETWEEN THE ASSESSOR AND THE APPELLANT IS APPROVED BY THE CHIEF FISCAL OFFICER, THE APPROVED AGREEMENT] shall [AUTOMATICALLY] constitute a withdrawal and termination of the appeal by the appellant and the agreed upon valuation shall become the assessed value.

- D. *Appeal to superior court.* The appellant or the assessor may appeal a decision of the board to the superior court within 30 days in accordance with the rules of appellate procedure of the state.

(AO No. 97-41, § 1, 3-4-97; AO No. 99-129, § 1, 9-28-99)

Editor's note: Former subsections 12.05.050.C.--F. were recodified as a new Section 12.05.053. Refer to the history note for Section 12.05.050.

Section 4. Anchorage Municipal Code subsection 12.05.055. is hereby amended as follows:

12.05.055 Appeals to property valuation appeal board [OF EQUALIZATION].

- A. A person whose name appears on the assessment roll as the owner of record or the [HIS] agent or assigns of that person may appeal to the property valuation appeal board [OF EQUALIZATION] for relief from an alleged error in valuation.
- B. No appeal may be taken unless the applicant files with the assessor [MUNICIPAL CLERK] written notice of appeal specifying grounds for such appeal within 30 days from the date the assessment notice was mailed. [THE BOARD SHALL PRESCRIBE THE FORM IN WHICH WRITTEN NOTICES OF APPEAL SHALL BE MADE.] An appeal application must be complete and presented on the form prescribed by the board. No appeal application may be accepted unless a filing fee of \$30 for a property whose assessed value is less than \$100,000, \$100 for property whose total assessed value is at least \$100,000 but less than \$500,000, \$200 for property whose total assessed value is at least \$500,000 and less than two million dollars, and \$1,000 for property whose total value is two million dollars or greater, is received by the assessor at the time of filing. If the appeal results in a reduction from the original assessed value the filing fee shall be refunded. The assessor shall assign a case number to the appeal within one week of filing and payment of the filing fee.
- C. The assessor shall schedule a calendar of hearing dates by March 15 or as soon thereafter as practical. The assessor [MUNICIPAL CLERK] shall notify the appellant by mail of the time and place for the hearing before the board [AND ASSIGN A CASE NUMBER TO THE APPEAL].
- D. A property owner [TAXPAYER] who seeks [REQUESTS] to appeal the assessor's [HIS] valuation after the 30-day filing period has closed shall file a letter with the assessor [MUNICIPAL CLERK] within 30 days from the date of the close of the applicable appeal period of that tax year stating the reasons why the property owner [TAXPAYER] was unable to appeal [COMPLY] within the 30-day period. [THE

BOARD OF EQUALIZATION] A panel of the board shall consider each letter. The panel shall only consider reasons the appellant was unable to comply within the thirty day period and shall not consider evidence regarding property valuation. The panel's [BOARD'S] determination shall be based on the letter and [ANY] supporting documents. A taxpayer may not make an oral presentation at this hearing. The panel [BOARD] shall interpret the term "unable to comply" as meaning that a property owner [TAXPAYER] must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal. If the request is granted, the property owner [TAXPAYER] shall have 30 days from the date of notification by the assessor [MUNICIPAL CLERK] to file an appeal and submit all evidence required by AMC 12.05.053.C.5 and C.7. If the request is denied, the assessor [MUNICIPAL CLERK] shall notify the property owner [TAXPAYER] of the board's decision.

(AO No. 49-75; AO No. 78-69; AO No. 86-30; AO No. 86-211(S-1); AO No. 87-44; AO No. 92-109; AO No. 2000-58, § 1, 3-21-00)

Editor's note: This section was formerly codified in the 1977 Code as Section 12.05.050.C.

Section 5. This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Assembly the _____ day of _____, 2003.

Chair of the Assembly

ATTEST:

Municipal Clerk