

# The Board of Equalization (B.O.E.) and the Appeal Process

My assessment should be  
No More than \$50,000 !!

But, your  
house is worth  
more than  
\$125,000

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# 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
- Due Process
  - Notice
  - Evidence
  - Opportunity to present argument

# Judicial process

- You are a Judge!
- Think Like a Judge!
- Act like a Judge!
- Presume Decision will be reviewed by a higher court!
- Appellant court does not want to substitute judgment.
- Process and 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.

# The Appeal Process – Cont.

- The Assessor places a value on the property
- If the property owner disagrees with the value, he/she discusses the value with the assessor within 30 days of the mailing of assessment
- If there is still no agreement, the appeal goes to the BOE
- BOE listens to appellant and the Assessor's arguments
- Makes a determination based upon facts presented at the hearing

## The Appeal (Cont.)

- Appeal must establish that valuation is **unequal, excessive, improper or undervalued** as required by AS 29.45.210(b)
- The following is intended for use as guidelines:

# Unequal, Excessive, Improper

- **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.



# Roles & Responsibilities

- Assessor (contractor or staff)
- Appellant
- Assembly/City Council
- Board of Equalization
- State of Alaska (State Assessor)

# 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 Appellant

- The appellant is seeking a change in value, therefore,
- The appellant bears the burden of proving the assessment is in error, either too high or too low
- The appellant should 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 Assembly/Council

- The assembly/council acts as the Board of Equalization; UNLESS,
- It appoints a BOE made up of individuals that are knowledgeable of the local real estate market
- The BOE is the interpreter of facts, presented at the hearing

# 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 (Uniformity of Assessments)

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

# BOE - Points of Discussion

- Definition of an appraisal
- Definition of an assessment
- Definition of the Full Value Determination
- How do they all relate
- Other Definitions
- The Appeal Process
- The Board of Equalization
- The Appeal Process Legal Authority

# Appraisal - definition

- The appraised value of a property is an appraiser's opinion, or estimate, typically, of the full market value. What the property would sell for on the open market between two individuals, both knowledgeable with the uses to which the property may be put, given sufficient time for marketing and there being no undue influence to sell or buy by either party.
- The appraisal process is a systematic, logical method of processing data into intelligent, well-reasoned value estimates.



# Assessment - definition

- The dollar amount at which a property is placed upon the assessment roll for tax purposes. The assessment originates from an appraised value.
- The assessment may differ from the appraised value (or market value) for one or more reasons: 1) fractional assessment laws, 2) partial exemptions, 3) value in use rather than value in exchange or 4) lack of all of bundle of rights of property ownership.
- The assessment process is a systematic, logical method of processing data into intelligent, well-reasoned value estimates.

# Property Taxes

- Some believe that property taxes are a penalty for owning property, they are not
- Property tax is simply a method of sharing the costs for providing local government services

# Appraisal vs. Assessment

- In Alaska, typically, the **appraised value** and the **assessed value** are synonymous, however, assessments may represent something different than just value in exchange, or market value
- The real estate market is **not an exact market** and there will be variances found in sales prices, the same can be said for variances in appraisals or “estimates” of value.

# Full Value Determination (FVD)

- An estimate of the TOTAL value of ALL taxable property
- Takes into account all municipal optional exemptions
- Addresses the assessment/sales ratio-which should be 100%
- It is reviewed by assessor prior to the actual mailing each year
- It is used in the formula for calculating the local school contribution

# Relationship of Values

- **Fee Appraisal** – An estimate of Market Value; Typically on only one property
- **Assessment** – An estimate of Market Value; Typically hundreds or, even thousands of properties
- **Full Value Determination** – An estimate of Market Value of ALL (statutorily taxable) property within municipality- using the local assessment roll as a starting point

# General Definitions

- **Real Property-** By statute, means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.
- **Personal Property-** Includes tangible property other than real property, such as inventory, machinery, equipment, fixtures, vehicles, boats and aircraft. Can be defined by exception...if it is not real property, then it is personal property.

# General Definitions (cont.)

- Possessory Interest – constitutes a private right to the possession and/or use of otherwise exempt property (typically, but not always, government property) for a specified time period.
- Bundle of Rights and Fee Ownership The greatest degree of property ownership with the six basic rights of ownership: as follows:

# General Definitions (cont.)

## Six Basics Rights of Private Ownership of Property

- Right to use
- Right to sell
- Right to lease or rent
- Right to enter or leave
- Right to give away
- Right to refuse to do any of these



# Approaches to Value

- **Cost Approach** – Requires estimates of land value, current cost of constructing the improvements-new, and accrued depreciation
- **Sales Comparison Approach**– Models the behavior of the market by comparing the property being appraised with similar properties that have recently sold
- **Income Approach**– Is an estimate of the present value of future benefits; chiefly, income and future sale of the property

# Role of The State Assessor

- The Office of the State Assessor (OSA) only becomes involved in a local assessment issue IF there is a claim of illegal activities by the assessor or the B.O.E.
- The OSA does not get involved in valuation disputes

# The Assessment

- The Assessor has a professional responsibility to the municipality and the property owners
- Assessor is presumed to have performed his/her duty in accordance with law
- Without evidence to the contrary, the value determined by the Assessor is presumed to be correct
- Modern appraisal methods, computerization and upgrade of assessment procedures help keep values more accurate

# The Appeal

- Property owners may appeal to the BOE for relief from inaccurate assessments
- The Appellant **not the Assessor**, bears the burden of proof
- If the Appellant meets this burden, then the burden falls to the Assessor
- 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

# Finding of Facts/Conclusions of Law

- Definition: **Finding of Facts-**

Determinations setting forth all the facts found to be true at the hearing, facts being either those made by the appellant or those made by the assessor

Definition: **Conclusion of Law-**

The conclusions reached based on the facts found during the hearing.

# 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 courts 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

## 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
- Assessors office mails notification to last known address or owner
- Sale of property may occur after mailing of notice, however, this does not negate the original 30 day filing period, because notice was made

# Alaska Statutes

- AS 29.45.110 through AS 29.45.210 is the legal authority for the assessment, appeal, Board of Equalization and the B.O.E. hearing process.
- 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 certain property tax exemptions.



## Some 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 B.O.E. "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- Post-Assessment date property tragedies cannot be changed by the BOE.

## B.O.E. “Do’s”

- Do show both the appellant and the assessment staff the courtesy of your attention
- 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 assessors staff are professional appraisers that have been to schools on appraisal standards and techniques, the appellant, typically, has not

# Summary

- The B.O.E. sits in review of the assessments prepared by the Assessor
- The B.O.E. does not make a new appraisal
- The B.O.E. should make a determination of value based upon facts presented at the hearing
- Your determination should include all findings of fact that led to the decision by the B.O.E.

**THANK YOU**

**FOR YOUR TIME**

**AND YOUR WILLINGNESS**

**TO SERVE ON THE B.O.E.**