

Board Of Equalization Procedures for Complex Appeals

A. These Complex Appeals Procedures (“Procedures”) shall apply when the chair has determined that a complex appeal is required pursuant to Valdez Municipal Code (“VMC”) 3.12.020 (G)(1)(h). The city clerk shall provide notice to the appellant and assessor of the Board’s decision to utilize these complex appeal procedures.

B. The Board shall schedule complex appeal hearings on or before June 30, unless the Board finds that a later date is administratively justified or the appellant has requested a later hearing date for good cause. The meetings of the Board for purposes of hearing complex appeals may be scheduled either on weekends, during business hours, or during evening hours. In the event that an appeal hearing is continued, the chair shall schedule a date and time for continuance of the appeal hearing.

C. Pre-Hearing Procedures.

1. Discovery. The assessor and the appellant may submit interrogatories and requests for production to the other party no later than fifteen days before the Board hearing on the appealed assessment. All such interrogatories and requests must seek information relevant to the valuation or taxability of the property at issue. A party may not submit more than ten interrogatories and ten requests for production, including all discrete subparts of each interrogatory and request for production, to the opposing party. Responses shall be due no later than five days after the request has been served upon the opposing party.

2. Failure to Respond to Requests. Failure to timely provide information requested pursuant to these Procedures and the VMC without good cause shown shall, upon motion from the requesting party to the city clerk and the other party, prevent the party failing to provide the information from including such information in the written evidence or using such evidence at the hearing. Before a ruling is issued on this matter, the party failing to provide the requested information shall be provided with a reasonable opportunity by the Board chair to present its case as to why this sanction should not be imposed, and the opposing party shall have a reasonable opportunity to respond.

3. Submission of Evidence. The assessor and appellant shall provide all documents or evidence that may be presented at hearing for Board consideration to the city clerk and the appellant no later than ten days before the Board hearing on the appealed assessment. Documentary evidence presented at hearing shall be limited to that submitted to the City Clerk no later than ten days before the Board hearing unless the Board determines that good cause exists for the late submission of evidence.

4. Witness Lists. Both the appellant and the assessor shall submit a witness list to the city clerk and the opposing party no later than ten days before the Board hearing on the appealed assessment.

5. Motions. All motions submitted by either party to the Board must be submitted to the city clerk in writing no later than ten days before the scheduled hearing. The opposing party shall have three business days to respond to any motion filed with the city clerk. Any motion or opposition thereto must be accompanied by a certificate of service certifying that a true and correct copy of the motion or opposition was served on the opposing party. The chair of the Board, or in his or her absence the vice-chair, is authorized to decide each submitted motion. The decision may be reviewed by the Board at the discretion of the chair or vice-chair, as appropriate.

D. Hearing.

1. The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. Each side shall have a total of no more than sixty minutes to present their case. Each side shall be responsible for dividing their sixty minutes between oral presentation, argument, testimony (including witness testimony), rebuttal, sur-rebuttal. The Board may expand or limit the length of the hearing depending on its complexity, or take other action to expedite the proceedings. Cross-examination will not be permitted during the opening presentation of the appellant or assessor's case but may occur during rebuttal. If a witness testifies during presentation of either the appellant's or the assessor's case, unless excused by the Board with the concurrence of the appellant and the assessor, the witness must remain available in the council room to be called to testify during rebuttal by the appellant or the assessor.

2. Exhibits. The only exhibits that shall be admitted into the record at the hearing are those documents or evidence provided to the city clerk in accordance with these Procedures. However, at the hearing, parties may use demonstrative or illustrative exhibits; provided, that all such exhibits may only be duplicates of exhibits or information provided to the Board in accordance with these Procedures.

3. The chair shall open the Board session by calling the Board to order, reading a summary of procedures for the Board, and by calling each appellant's name and asking if the appellant or representative is present. The chair shall bring each appeal before the Board in the order scheduled by the city clerk.

4. Agenda. Each appeal shall be conducted in the following order:

- a. Summary of assessment data (read into the record by the clerk);
- b. Appellant's opening presentation;
- c. Assessor's opening presentation;
- d. Rebuttal by the appellant;

- e. Rebuttal by the assessor;
- f. Sur-rebuttal by the appellant.
- g. Closing by the assessor
- h. Closing by the appellant.

5. If the appellant or representative is not present when called, the Board shall consider any written presentation, evidence, and documents presented to it and thereafter proceed according to the remaining applicable provisions of this chapter.

6. All persons presenting evidence shall do so under oath, administered by the clerk.

7. First, the appellant or representative presents the appellant's case when called by the chair. The appellant may make an opening statement and then call witnesses for direct examination, cross examination by the assessor, and redirect examination by the appellant. The scope of direct questioning is limited to the issues in dispute, the scope of cross-examination is limited to issues raised on direct examination, and the scope of redirect examination is limited to issues raised on cross examination. At the conclusion of the appellant's presentation, Board members may question the appellant or their witnesses.

8. The assessor or designee then presents the assessor's case when called by the chair. The assessor may make an opening statement and then call witnesses for direct examination, cross examination by the appellant, and redirect examination. The scope of direct questioning is limited to the issues in dispute, the scope of cross-examination is limited to issues raised on direct examination, and the scope of redirect examination is limited to issues raised on cross examination. At the conclusion of the assessor's presentation, Board members may ask questions of the assessor or their witnesses.

9. If the appellant or the assessor has reserved a portion of their allowed time, each may then present rebuttal evidence, with the appellant proceeding first. At the conclusion of each rebuttal presentation, Board members may ask questions of the party presenting rebuttal or their witnesses.

10. If the assessor presents a rebuttal case, the appellant may present sur-rebuttal limited to the issues raised in the rebuttal case.

11. The parties may then present closing arguments with the assessor proceeding first followed by the appellant.

12. The time required to answer questions from the Board shall not be charged against either party.

13. After the appellant and assessor have presented their cases, the hearing shall be closed by the chair, and no further evidence shall be offered or considered in deliberations unless a member of the Board of equalization asks for additional information from either party. Both parties shall be given an equal opportunity to respond to any such requests for additional information.

E. Decision.

1. The Board may enter into executive session for purposes of deliberation. The Board may decide the appeal after the presentations, or it may defer a decision for a reasonable period not to exceed fourteen days. The Board may prepare and adopt written findings. Final Board action shall be taken in open session by motions that set out specific findings of fact, and shall not be reconsidered, amended or rescinded by the Board. Only one motion may be on the floor at a time, and the Board shall vote on the motions until its findings are established. The vote must be taken and entered into the permanent record of the proceedings.

2. The burden of proof is on the appellant. The only grounds for the Board to adjust the assessment are proof of unequal, excessive, improper, or under valuation or that the property is not taxable based on facts proven at the appeal hearing. The Board may not alter the assessment of a property unless a timely written appeal has been filed concerning the property.

3. The city clerk shall certify the decisions of the Board, and shall keep the decisions on file as part of the public record. The city clerk shall promptly deliver a copy of the Board's decision to the appellant by certified mail and deliver a copy to the assessor.

F. Appeal. Either the appellant or the assessor may appeal the decision of the Board to the superior court in the third judicial district within thirty days of the date of mailing of the Board's decision, as provided by the rules of appellate procedure governing appeals from administrative agency decisions. The record on appeal is the record established at the Board hearing.