

BOARD OF EQUALIZATION TRAINING

APRIL 15, 2025

PRESENTERS:

SHERI PIERCE, CITY CLERK

JAKE STASER, CITY ATTORNEY

THE BASICS

- ▶ Listen to the case presented.
- ▶ Decide based on the evidence presented.
- ▶ Establish a record that supports the decision.
- ▶ Ask questions on the record.

POINTS OF DISCUSSION

- ▶ What is the assessment process?
- ▶ What is the appeal process?
- ▶ What is the role of the BOE?
- ▶ How should an appeal be decided?
- ▶ How do we make a record?
- ▶ BOE “Do’s” and “Don’ts.”

THE ASSESSMENT PROCESS

- ▶ Annual process establishing full and true value of all taxable property.
- ▶ Goal is to achieve uniform assessments, consequently, Appraiser uses “mass appraisal” techniques.
- ▶ In order to produce equality in the tax burden, there must be uniformity in the manner of assessments.
- ▶ Any accepted appraisal method may be used so long as it is applied uniformly.
- ▶ Assessor considers market data (sales) and uniformly applies this data to each property to derive an assessment value.

THE APPEAL PROCESS

- ▶ Appeals must be filed within 30 days of mailing and notice of assessment setting forth: (1) the name of the property owner; (2) a legal description of the property; (3) grounds for appeal; (4) supporting evidence, and (5) the Appellant's opinion of value.
- ▶ Under limited circumstances late-filed appeals may be accepted under VMC 3.12.110.
- ▶ Appeals are forwarded to the Assessor who attempts to contact the Appellant and makes necessary adjustments to the assessment.
- ▶ If the Assessor and the Appellant mutually resolve a duly filed appeal prior to a hearing by the Board of Equalization, the Appellant may withdraw that appeal in writing or on the record.
- ▶ The Assessor shall prepare for use by the Board of Equalization a summary of assessment data relating to each assessment that is appealed.

THE APPEAL HEARING

- ▶ Appeals shall be heard in the order scheduled by the City Clerk.
- ▶ NEW: VMC 3.12.120(G)(1)(a)

“If an appellant is not present at the time scheduled the appeal will be deferred and the next scheduled appellant heard. When the board has heard the appeals of all scheduled appellants who have appeared at the hearing, it shall take up the appeals of absent appellants. If any appellant remains absent after deferral of the hearing, the board may proceed with the hearing upon whatever material has been previously filed by such absent appellant.”
- ▶ VMC 3.12.120(G)(1)(i)

“Order of Presentation: The appellant shall present argument first. Following the appellant, the assessor shall present the city’s argument. The appellant may, at the discretion of the chair, make rebuttal presentations directed solely to the issues raised by the assessor. The members of the board may ask questions through the chair of either the appellant or the assessor at any time during the hearing.”
- ▶ Evidence rules are informal.
- ▶ Appellant Bears the Burden of Proof!

THE APPEAL HEARING (CONTD.)

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BOARD OF EQUALIZATION HEARING PROCEDURE

- ▶ Appellants and witnesses are sworn in by the City Clerk.
- ▶ Appellant addresses the Board with testimony.
- ▶ Board questions Appellant.
- ▶ Assessing staff questions Appellant.
- ▶ Assessing staff addresses the Board with testimony.
- ▶ Board questions assessing staff.
- ▶ Appellant questions assessing staff.
- ▶ Appellant gives rebuttal. No new evidence can be introduced.
- ▶ Assessing staff gives rebuttal. No new evidence can be introduced.
- ▶ Chairman asks for motion.
- ▶ Motion made with specific factual findings and identifying grounds for adjustment if any.
- ▶ Board discussion. Limited to only the Board members, however, technical questions may be addressed to the assessing staff. Discussion should include facts supporting the decision.
- ▶ Roll call vote by the City Clerk. A simple majority vote is needed to alter an assessed value.

ROLE OF THE ASSESSOR AND BOE

- ▶ 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 BOE.
- ▶ The BOE **listens** to appeals, and **if necessary**, adjusts the assessment of individual properties, higher, or lower.
- ▶ The BOE is an adjudicator!!
- ▶ Judge, Jury, and Cross-Examiner – The BOE serves as all three in hearing a property tax appeal.

BOE MEMBERS ARE AKIN TO JUDGES

- ▶ BOE Members are serving a quasi-judicial role.
- ▶ Think like a Judge.
- ▶ Act like a Judge.
- ▶ No *Ex Parte* Contact!
- ▶ Make a record that shows the basis for the decision on law and facts.
- ▶ Presume your decision will be reviewed by a higher court.

ROLE OF THE APPELLANT

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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 unsupported assertions, not rumor, not anecdotes, 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.

DECISION OF THE BOARD

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CITY OF VALDEZ - BOE TRAINING

- ▶ “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 provided at the appeal hearing.” VMC1.12.120(G)(1)(e)
- ▶ Code revisions are in progress to expressly allow taxability appeals.
- ▶ Only rely on facts presented in the written appeal or at the appeal hearing!
- ▶ Do not rely on “personal knowledge” outside of the evidence in the record.
- ▶ The BOE decision must state what facts and what legal grounds the decision is based on.

UNEQUAL, EXCESSIVE, IMPROPER

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Interpretation of meaning from the court decisions:

- ▶ **UNEQUAL** means 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. “An assessment is unequal if the taxing authority treats one taxpayer differently than other similarly situated taxpayers.” One example is the use of different mill rate for similarly situated properties.
- ▶ **EXCESSIVE** means the property is overvalued. The appellant may establish that an assessment is excessive by showing that comparable properties other than those used by the appraiser provide a better comparison or establishing an exemption was not properly applied.
EXCESSIVE ASSESSMENT IS THE MOST COMMON BASIS FOR ADJUSTMENT.
- ▶ **IMPROPER** means the assessment methodology itself was incorrect or was incorrectly applied.
- ▶ **UNDERVALUED** – Rare, but yes it does happen from time to time.

UNEQUAL, EXCESSIVE, IMPROPER

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CITY OF VALDEZ - BOE TRAINING

- ▶ 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 – a valuation is not improper merely because a different method would yield a different valuation.

NOT TAXABLE

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- ▶ Code revisions in progress to expressly allow taxability appeals.
- ▶ A property is taxable unless expressly exempted from taxation under the VMC.
- ▶ Appellant must show that exemption applies or that the property does not meet the definition of taxable property as interpreted by the City.

EVIDENCE AND ARGUMENT

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CITY OF VALDEZ - BOE TRAINING

- ▶ 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 and/or address any new evidence presented at the hearing.
- ▶ Both parties have the opportunity to rebut the evidence and argument presented at the hearing.
- ▶ Evidence = presentation of facts.
- ▶ Argument = interpretation of law.

OUTSIDE EVIDENCE OR FACTS

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- Not consistent with due process.
- If you make a decision based on privately-held facts, neither party has the opportunity to rebut/contextualize.
- Do not base your decision on personal knowledge outside what is presented at hearing!
- Your questioning can encourage a party to produce evidence that might be helpful in making your decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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CITY OF VALDEZ - BOE TRAINING

► Findings of Fact-

Determinations set forth all the facts found to be true at the hearing. Facts are 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 are based on the legal premises for the decision. Excessive, Unequal, or Improper. If the Appellant has met their burden the change in valuation must be stated on the record. New valuations should be rounded to the nearest \$100.00.

FINDINGS OF FACT AND CONCLUSIONS OF LAW - EXAMPLES FAULK I

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CITY OF VALDEZ - BOE TRAINING

- ▶ Insufficient basis to uphold BOE determination where it is merely stated on the record that “appellant, Mr. Faulk, has not presented sufficient evidence to prove an unequal, excessive or improper valuation.” (*Faulk v. Bd. of Equalization*, 934 P.2d 750, 751 (Alaska 1997)).
- ▶ The court held:
 - “the language of the Board's motion does not facilitate review of how the Board addressed the assessor's treatment of the recent price paid by the Faulks for the Property.”
 - “In this case, we can only guess how the Board resolved the conflicts between the Borough's and the Faulks' evidence relating to the recent sale price.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW - EXAMPLES

FAULK II

- Sufficient basis to uphold BOE determination where it is stated on the record that:

Appellants “have not presented sufficient evidence to prove an unequal, excessive, improper or [under valuation] for the following reasons, and they haven't submitted very much data, and, in fact, that data that they have submitted, the insurance data would indicate the value may be higher, so we just do not have — they have not proved their case.”

“[T]he owners of the property would like us to look at the whole property, ... by law, and the way this property is listed as a condominium unit, the assessors are required to look at each individual unit. It would make — it possibly could make a difference, but when you're looking at each individual unit, given prices, there's no question in my mind that this is a fair price.”

- The court held:

“we are not left to speculate about why the Board thought that the Faulks' evidence was insufficient,”

“the Board “considered each issue of significance,” they “demonstrate the basis for the Board's decision,” and they are “sufficiently detailed.”

OTHER LESSONS FROM FAULK I & II

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CITY OF VALDEZ - BOE TRAINING

- ▶ In Faulk I it was error for the assessor and the Board not to consider the recent purchase price of the assessed property.
“By failing to consider recent sales of the subject property the Municipality ignored directly relevant, albeit not conclusive, evidence of [the property's] value.”
- ▶ In Faulk II it was not error for the Board to uphold a valuation where the appellant presented an unsigned earnest money agreement purportedly establishing a sales price lower than the valuation.
“the evidence proffered by the Faulks does not indicate the prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property.”
- ▶ BOTTOM LINE – The BOE must consider all salient facts presented and address them on the record.

HOW TO MAKE A DEFENSIBLE RECORD

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CITY OF VALDEZ - BOE TRAINING

- ▶ Unless no evidence was presented by the appellant, DO NOT merely state that the Appellant has failed to provide sufficient evidence of excessive, unequal, or improper valuation.
- ▶ Instead DO address the evidence presented in the Motion and Discussion on the Motion.

Move to uphold the assessor's valuation because the Appellant failed to present sufficient evidence to establish excessive, unequal, or improper valuation for the following reasons:

- ▶ The comparable properties presented by the Assessor are more similar to the subject property than the comparable properties presented by the Appellant.
- ▶ The condition of the subject property is not substantially worse than the comparable properties used by the Assessor.
- ▶ The Appellant did not provide any comparable properties to establish a reduction in the valuation is required.
- ▶ The Appellant relied exclusively on the argument that the increase in valuation year over year was too high, this is not a proper grounds for reducing the valuation.
- ▶ ADDRESS THE FACTS PRESENTED IN THE MOTION AND IN DISCUSSION, COURTS WILL CONSIDER BOTH.

HOW TO MAKE A DEFENSIBLE RECORD (CONTD.)

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CITY OF VALDEZ - BOE TRAINING

- ▶ 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 usually receive a new hearing.
- ▶ Courts need to know how you made your decision.
- ▶ Place yourself in the 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.
- ▶ For example, if the Appellant has made an assertion as to why the value should be lower, your conclusions should address the assertion as to why it was or was not considered appropriate. If the court can't understand your findings, it will usually remand the case back to the Board.

HOW TO MAKE A DEFENSIBLE RECORD (CONTD.)

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CITY OF VALDEZ - BOE TRAINING

- ▶ Standard of review is reasonable basis.
- ▶ “Taxing authorities are to be given broad discretion in selecting valuation methods, and we are concerned with nothing less than fraud or the clear adoption of a fundamentally wrong principle of valuation.”
- ▶ Courts evaluate “whether the record sufficiently reflects the basis for the [agency's] decision so as to enable meaningful judicial review.”
- ▶ “Findings are adequate to permit appellate review when at a minimum, they show that the Board considered each issue of significance, demonstrate the basis for the Board's decision, and are sufficiently detailed.”

BAD REASONS FOR A REDUCTION

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- ▶ Taxes are too high
- ▶ Value increase too much
- ▶ No improvements made to the property
- ▶ Neighbor's house valued less
- ▶ Not enough services from Municipality for taxes paid
- ▶ Value is just plain excessive, improper, and unequal without supporting evidence
- ▶ Didn't receive an assessment notice

POTENTIAL LEGITIMATE REASONS FOR A REDUCTION

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CITY OF VALDEZ - BOE TRAINING

- ▶ The Property was sold during the assessment year but the Assessor did not consider the sale price.
- ▶ The assessment includes a factual error such as wrong square footage.
- ▶ The property was in exceptionally poor condition as of the assessment date i.e. roof was caved in, fire destroyed part of the house.

BOE “DON'TS”

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CITY OF VALDEZ - BOE TRAINING

- ▶ 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”

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CITY OF VALDEZ - BOE TRAINING

- ▶ Do show both the Appellant and the assessment staff the courtesy of your attention, and discuss weight given to issues.
- ▶ Do make your decisions based upon ONLY the facts presented at the hearing.
- ▶ Do make a record by basing the motion on the facts presented and discussing all salient facts.
- ▶ 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

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CITY OF VALDEZ - BOE TRAINING

- ▶ The BOE sits in review of the assessments prepared by the Assessor.
- ▶ The BOE does not make a new appraisal it makes adjustments to the appraisal prepared by the Assessor.
- ▶ 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.