



City of Valdez

212 Chenega Ave.
Valdez, AK 99686

Meeting Agenda

City Council

Tuesday, June 28, 2022

5:45 PM

Council Chambers

Board of Equalization- Late File Appeal Hearing

BOARD OF EQUALIZATION - 5:45 pm

Transcribed minutes are not taken for Work Sessions. Audio is available upon request.

I. PUBLIC HEARINGS

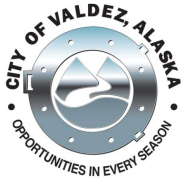
1. [Request for Finding of Inability to Comply with Timely Filing of Tax Appeal for Tabatha and Joshua Sweirk- Parcels #7100-009-022-0; #5670-008-000-0; #7131-002-001-0; #5670-010-000-0](#)

Attachments:

[Sweirk Rqst Finding Inability to Comply](#)

[VMC 3.12.110 Re Finding of Inability to Comply Timely Filing of Appeal](#)

[Ltr Swierk Hearing Notice 062122](#)



Legislation Text

File #: 22-0330, **Version:** 1

ITEM TITLE:

Request for Finding of Inability to Comply with Timely Filing of Tax Appeal for Tabatha and Joshua Sweirk- Parcels #7100-009-022-0; #5670-008-000-0; #7131-002-001-0; #5670-010-000-0

SUBMITTED BY: Elise Sorum-Birk, Deputy City Clerk

FISCAL NOTES:

Expenditure Required: n/a
Unencumbered Balance: n/a
Funding Source: n/a

RECOMMENDATION:

[Click here](#) to enter text.

SUMMARY STATEMENT:

Tabatha and Joshua Sweirk have requested a finding of inability to comply with the timely filing requirement outlined in VMC 3.12.110 (B) for four properties that they own.

The requirements for a late file appeal are found in VMC 3.12.110 (C) and the Board of Equalization must consider this request for finding by following the process outlined in VMC 3.12.100 (D). It is in the purview of the board to consider the merits of the request for a finding of inability to comply.

REQUEST FOR FINDING OF INABILITY TO COMPLY WITH TIMELY FILING OF TAX APPEAL

NAME OF PROPERTY OWNER: Joshua + Tabatha Swierk

PARCEL NUMBER (PNID): See below.

LEGAL DESCRIPTION: See below

I, Tabatha Swierk, legal owner of the property described above, hereby request a finding by the Chair of the Board of Equalization that I was unable to timely file a tax appeal as required under VMC 3.12.110(B) based on the following reason: (The request for a finding of inability to comply must be based on conditions as described in Section 3.12.110 (C) (2) of the VMC.)

Staffing shortages due to COVID resulted in working from home - Midnight 7 days a week to cover. Unable to see notary by the deadline. Was also never made aware that email submissions would be accepted if emailed by the deadline. Had I been informed, the emails could have been submitted on time, with notarized originals to follow. Thank you for your time and consideration.

7100-009-022-0 Lot 22, Block 9 Alpine Woods, Plat # 75-01

5670-008-000-0 Lot 8, Plat # 2003-2

7131-002-0010 Lot 1, Block 2 Northern Lights Phase II

Signature of Legal Owner:

Date of Filing:

Tabatha Swierk

4/13/22

Received in the Office of the City Clerk: Date: _____ Time: _____

Accepted by: _____
Sheri L. Pierce, MMC, City Clerk

REQUEST FOR FINDING OF INABILITY TO COMPLY WITH TIMELY FILING OF TAX APPEAL

NAME OF PROPERTY OWNER: Swierk Enterprises - Joshua + Tabatha Swierk
PARCEL NUMBER (PNID): 5670-010-000-0
LEGAL DESCRIPTION: Lot 10, Plat # 2003-2

I, Tabatha Swierk, legal owner of the property described above, hereby request a finding by the Chair of the Board of Equalization that I was unable to timely file a tax appeal as required under VMC 3.12.110(B) based on the following reason: (The request for a finding of inability to comply must be based on conditions as described in Section 3.12.110 (C) (2) of the VMC.)

Staffing shortages due to COVID resulted in working from home - midnight 7 days a week to cover. Unable to see notary by the deadline. Was also never made aware that email submissions would be accepted if emailed by the deadline. Had I been informed, the emails could have been submitted on time, with notarized originals to follow. Thank you for your time and consideration.

Signature of Legal Owner: Tabatha Swierk **Date of Filing:** 4/13/22

Received in the Office of the City Clerk: Date: _____ Time: _____

Accepted by: Sheri L. Pierce, MMC, City Clerk

3.12.110 Appeals to board of equalization.

A. A property owner or agent or assign of the property owner may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the property owner's satisfaction. Whenever it appears to the board that there are overcharge or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed by the assessor to that person or his agent giving him at least thirty days from the date of such mailing within which to appeal to the board against the assessment.

B. A written appeal, specifying the grounds for the appeal, shall be filed with the board of equalization within thirty days after the date on which the assessor's notice of assessment was given to the person appealing. The appeal must state the name of the owner and a legal description of the property. If the party making the request is an assign of the record owner, documentation of the assignment must bear a stamp reflecting the recording district and the book and page number or serial number of the recorded assignment. If the party making the request is an agent of the property owner, the property owner's signature granting the authority must be notarized and attached to the request. For purposes of this section, the appeal is submitted on the date it is received in the office of the city clerk. Appeal forms shall be available from the city clerk's office. Such notice shall contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal shall be sent to the assessor as above indicated.

C. Taxpayer request for a finding that the taxpayer was unable to comply with the timely filing requirement of subsection B of this section.

1. A property owner or agent or assign of the property owner may request a finding that the taxpayer was unable to comply with the requirement to timely file an appeal as required in subsection B of this section by filing a written request with the city clerk within fourteen days after the inability to comply ceased or within fourteen days after the taxpayer should have become aware of the reason for filing the appeal, whichever is earlier.

2. The request for a finding of inability to comply must be based upon a serious condition or event beyond the taxpayer's control that resulted in the inability to timely file the appeal. For purposes of this subsection, a serious condition or event may include a serious medical condition or other similar serious condition or event that prevented the taxpayer from timely filing the appeal. Absent

extraordinary circumstances, a failure to pick up or read mail or to make arrangements for an appropriate and responsible person to pick up or read mail or a failure to timely provide a current address of the assessor will not be deemed to result in an inability to comply.

3. A request for a finding of inability to comply is limited to an appeal of the notice of assessment for the current assessment year.

4. The written request must be submitted on a request form supplied by the city clerk and must include the following:

a. Name of the property owner or agent or assign of the property owner;

b. The parcel number of the property;

c. If the party making the request is an assign of the record owner, documentation of the assignment must bear a stamp reflecting the recording district and the book and page number or serial number where the assignment is recorded;

d. If the party making the request is an agent of the property owner, the property owner's signature granting the authority must be notarized and attached to the request;

e. A description of the justification for the request must be subscribed and sworn or affirmed before a notary public or other official with similar authority by the property owner or duly authorized agent or assign;

f. Information sufficient to determine whether the request has been submitted within the time stated in subsection (C)(1) of this section;

g. An attached and properly completed and executed appeal form alleging one or more of the grounds for appeal stated in subsection E of this section.

5. A request bearing insufficient justification or information for evaluation constitutes a basis for final denial of the request by the board of equalization.

D. Determination by the chair whether a late file appeal meets the requirements for consideration by the board of equalization and procedure for board evaluation of the merits of the asserted justification and for scheduling a required hearing.

1. With the exception of determining the merits of the justification, the chair is delegated the authority to review the request for compliance with subsection (C)(4) of this section. If the chair determines that the request does not meet the requirements for consideration by the board, the chair will so indicate on the request, and that decision shall be final unless the chair refers the question to the full board. If referred to the full board, proper notice must be given. The decision by the chair or the full board shall be final. The taxpayer shall have the right to appeal a negative

decision under the rules of appellate procedure governing appeals from administrative agency decisions.

2. If the chair or the full board finds that the request meets the requirements for consideration of the inability to comply question by the board of equalization, the chair will so indicate on the request. The city clerk shall notify the party making the request and shall schedule a time for the board of equalization to convene to consider merits of the request for a finding of inability to comply. The meeting shall be scheduled by the city clerk after consultation with the assessor and at the direction of the board of equalization chair. The property owner or agent or assign of the property owner and the assessor shall be permitted to present additional evidence or testimony. The board may require additional evidence or testimony. The proceeding shall be recorded and all evidence must be submitted under oath.

3. If the board of equalization determines that the taxpayer has not proven an inability to comply, an appeal of the assessment to the board of equalization will not be allowed, and that decision shall be the final decision of the board of equalization. The city clerk shall notify the parties in writing.

4. The taxpayer and city shall have the right to appeal a decision under subsections C and D of this section to court under the rules of appellate procedure governing appeals from administrative agency decisions.

5. If the board of equalization determines that the appellant was unable to comply, the city clerk shall schedule a hearing for the appeal and give the notices required by subsection F of this section. The matter shall proceed as provided in this chapter.

E. The grounds for appeal are: unequal, excessive, improper or under valuation of the property not adjusted by the assessor to the property owner's satisfaction, or an error in ownership or classification of property. The potential validity or invalidity of asserted errors in assessment shall have no bearing on the determination of whether the taxpayer was unable to timely file an appeal.

F. After the time for filing valuation appeals has expired and after consultation with the assessor, and at the direction of the chair of the board of equalization, the city clerk shall schedule meetings of the board of equalization. The city clerk on behalf of the assessor shall notify each appellant by mail of the time and place of hearing and board of equalization procedures at least fifteen days before the evidence or documents required by Section 3.12.126(A) and (B) must be provided to the city clerk. A party can request a continuance of hearing only for good cause and the continuance must be requested no later than fifteen days prior to the hearing date unless the reason for the continuance is a serious condition or event that prevented a timely request or that arose after the deadline. For the purposes of this subsection, a serious condition or event may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar serious condition or event. Additionally, a continuance shall not be granted if it will cause substantial prejudice to the other party. The chair of the board of equalization is given

the discretion to determine whether to grant a request for a continuance. A continuance, however, does not extend the deadline for any party to file any documents or evidence under Section 3.12.126(A) or (B), if the application was not filed with the city clerk before the original deadline for filing such documents or evidence. If the application for a continuance was filed before the original deadline for filing documents and the application is denied, the application for a continuance will not extend the original deadline for filing documents. A hearing shall be scheduled for all notices of appeal unless the notice is clearly not based on one or more of the grounds stated in subsection E of this section as determined by the board of equalization chair. When a hearing is not scheduled, the city clerk shall notify the person who submitted the notice that a hearing will not be scheduled.

G. Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the city council may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter on the appeal, and the assessor shall place the same before the board of equalization from time to time as may be required by the board. The board shall cause a notice of the sitting at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses last known to the assessor.

H. The property owner may appear and participate in an appeal of an assessment by a city.

I. The city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (Ord. 08-07 § 2: prior code § 25-7)



June 21, 2022
Office of the City Clerk

Joshua and Tabatha Swierk
PO Box 1126
Valdez, AK 99686

Dear Tabatha,

RE: Request for Finding of Inability to Comply with Timely Filing of Tax Appeal for:

Parcel# 7100-009-022-0 – Lot 22, Blk 9, Alpine Woods Subdivision
Parcel# 5670-008-000-0 – Lot 8, Plat #2003-2
Parcel# 7131-002-001-0 – Lot 1, Blk 2, Northern Lights Phase II
Parcel# 5670-010-000-0 – Lot 10, Plat #2003-2

The Board of Equalization will be meeting on **Tuesday, June 28, 2022, at 5:45 PM** in the City Council chambers to consider the merits of your request for a finding of inability to comply with timely filing of tax a tax appeal(s).

Section 3.12.110 (C) of the Valdez Municipal Code allows a taxpayer to request a finding that the taxpayer was unable to comply with the timely filing of an appeal. The request must be based upon a serious condition or event beyond the taxpayer's control that resulted in the inability to timely file the appeal. A serious condition or event may include a serious medical condition or other serious condition or event that prevented the taxpayer from timely filing the appeal. Absent extraordinary circumstances, a failure to pick up or read mail or to make arrangement for an appropriate and responsible person to pick up or read mail or a failure to timely provide a current address will not be deemed to result in an inability to comply. (VMC 3.12.110 (C))

Following submission of the form requesting a finding of inability to comply with the timely filing of your appeal, the Board of Equalization shall meet for the purpose of considering the merits of the request.

If the Board determines that the reasons for not filing the appeal in a timely manner are based on a serious condition beyond the taxpayer's control then the City Clerk will schedule a time for the Board to hear your appeal of the assessor's valuation.

If after consideration of the reasons for not filing the appeal in a timely manner the Board determines the taxpayer has not proven an inability to comply, the appeal of the assessment(s) to the Board of Equalization will not be allowed, and that decision shall be final.

This letter shall serve as notice of the meeting of the Board. At the hearing, you are permitted to present additional evidence or testimony relative to the reason you were unable to file a timely appeal.

Again, the sole purpose of this brief hearing is only for the Board to determine if your request for acceptance of late file appeal(s) meets the requirements set forth in the Valdez Municipal Code for consideration of the inability to comply.

Please let me know if you have any questions on the process prior to the hearing. Please contact me in person at city hall, by email to spierce@valdezak.gov or at 907-202-0712.

Sincerely,



Sheri L. Pierce, MMC
City Clerk