



RESTORING PUBLIC TRUST

NOVEMBER 30, 2023

**RESTORING PUBLIC TRUST IN ALASKA'S PROPERTY TAX ASSESSMENTS
LEGISLATIVE RECOMMENDATIONS**

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Executive Summary

A local government's greatest currency is the trust and respect of the people it serves.

The goal of this report is to restore public trust through an update to Alaska statutes. The property tax assessment process as established by Alaska Statutes has become a bipartisan concern. Alaska's Board of Equalization (BOE) process has failed to uphold Alaska statutes, which requires property to be assessed "at its full and true value as of January 1 of the assessment year." Excessive property taxes have a detrimental effect on communities by making homes and commercial property more unaffordable for both owners and tenants.

In the name of uniformity and equity, mass appraisal valuations are being rolled out throughout the State that are assessing property more than "full and true value" as required by AS 29.45.110 (a)¹. The mass appraisal method is a *technique* defined as "the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing statistical testing."² However, the goal for uniformity does not supplant the requirement for real property to be valued at its full and true value.

Methodologies used by assessors have been failing to comply with the Uniform Standards of Professional Appraisal Practice and standards established by the International Association of Assessing Officers. Statutes also fail to protect citizens' first amendment rights by establishing a default of elected representatives to serve as BOE members. This prevents residents' ability to petition their government for a redress of grievances when process errors occur. Statutes also do not protect citizens' rights to due process and the right to a fair hearing by remaining silent on hearing process requirements.

Detailed in this report are real world challenges and process failures that have resulted in unjust outcomes for Alaska property owners. Solutions and process improvements to protect the public's right to fair hearings, which result in "full and true" assessments, are provided with specific statutory change recommendations. The intent is to protect the government's ability to collect property tax on fair assessments while also leading the way to a rebuilding of the public's trust in Alaska's property tax assessment process.

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Introduction

Excessive property assessments have become a bipartisan concern in Alaska, resulting in a loss of trust in the process. An opportunity exists to restore public trust by modifying statutes to create fair and transparent requirements that protect the public from unequal and arbitrary valuation practices.

“I’d like to make a formal apology to the public for the property tax assessment situation...There’s no doubt we are in a state of need. – Haines Borough Mayor, November 14, 2023

Issues surrounding 2023 Haines property tax assessments became such a great concern to the public that the mayor issued a formal apology to the people. The apology was in response to a loss of public trust and a citizens’ petition that quickly gained bipartisan support and hundreds of signatures in a few days. What preceded the government’s apology was a perfect storm of process failures combined with unjust actions from government officials. While the issues came to light at a local level, the catalyst was due to a failure of statutes to protect individuals’ rights and public interest.

Property taxes are assessed in 24 of Alaska’s 164 local governments but cover most of Alaska’s population.³ Property tax is vital to these communities to provide the services the people need and want. But when property is assessed at more than its full and true market value the community is negatively impacted with less affordable housing and commercial property for everyone that owns, rents, or leases property.

This document provides specific examples and recommendations for statute changes. **All recommendations are in support of one goal: To restore public trust with property tax assessments at full and true value as required by AS 29.45.110(a) while ensuring appellants’ rights to due process and fair hearings.**

Government procedures must maintain fair and transparent requirements to protect the public interest. Otherwise, the government risks losing the trust and respect of the people they serve.

Full and True Value

Uniformly high property values do not supplant the primary requirement for real property to be valued at fair market value.

AS 29.45.110 (a) “The assessor shall assess property at its full and true value as of January 1...the estimated price that the property would bring in an open market.”

The mass appraisal method is a technique defined by The Appraisal Foundation as *“the process of valuing a universe of properties as of a given date, employing common data, using standard methodology and allowing statistical testing.”*²

The International Association of Assessing Officers (IAAO) in its publication Assessment Administration on page 229 states, *“In an appeal, a complete defense does take on some elements of a single-property appraisal. Computer-assisted mass appraisal for all its strengths tends to retreat into the background during a protest. A protest, by nature of its focus on an individual property, often requires the skill of individual property appraisal.”*⁴

Assessments based on mass appraisals using replacement cost-based models that ignore actual market sales conditions have been used, resulting in inflated assessment values in excess of full market value.

In Juneau, an appellant bought the Behrends Bank building for \$1,250,000 and about a month later the CBJ assessor valued the building at \$2,547,000 for property tax purposes. Upon appeal the CBJ assessor argued that the purchase price was not a market sale because it was not uniform with other limited property sales.⁵ Undeniably, this was an arms-length transaction. The assessor defended the inflated assessment with the standard mass appraisal argument of ‘uniformity and equity’ that is anything but transparent.

Use of the replacement cost method results in inflated values on older buildings, the theory of which is to calculate current building costs with adjustments for depreciation, functional, and physical obsolescence. This approach is improper because assessment offices notoriously fail to maintain accurate and reliable records of obsolescence through timely field visits.⁶

For example, the 109-year-old Behrend's Bank building was valued as a new building with minor adjustments. Rather than adjusting the value of the Behrends Bank sale to fit the mass appraisal method, the CBJ should have accepted the valid market sale, questioned the reliability of their mass appraisal methodology and re-calibrated it using the market sale and/or certified appraisal as prime data. Instead, the market sales were rejected and certified single-property appraisals were not considered even though the appraisal showed market value using both the Sales Approach and Income Approach.

The preferred method for valuing older buildings is the sales or income approach. The cost-based approach fails due to the following:

- Use of a cost-based methodology creates significantly inflated valuation of property and fails to meet mandated assessment valuation at full and true value.
- Fails to factor in functional and economic obsolescence common in older buildings and generates unrealistic replacement costs that include modern building codes, architectural standards, modern materials, and other inflationary elements.
- Inflating assessments beyond full and true value circumvents the will of the people in communities that have enacted millage cap rates to limit property tax.⁷

The mass appraisal method is intended as a technique and not the final arbiter of valuation.

Assessment methodologies that “uniformly”⁸ assess properties in excess of full and true value circumvent the will of the people that live in communities, like Haines⁹ and Juneau,¹⁰ that have enacted millage rate tax caps to limit the taxation of property. The increased assessment of more than fair market value can result in a tax obligation that exceeds the jurisdiction’s millage limit on the full and true value of real property.¹¹

See Appendix A for further information on how property tax assessments in excess of full market value circumvent voter-enacted millage rate tax caps.

Full and True Value – Statutes Proposal

Therefore, [Amended] AS 29.45.110(a) Full and True Value would read as follows:

(a) The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.60, and 29.45.230. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels, **anything to the contrary notwithstanding. An appeal pursuant to this section must be treated as a single-property appraisal. A property market sale or single-property appraisal shall be the preferred method of valuation.**

Single-Property Appraisal is defined as, “Systematic appraisal of properties one at a time. Commonly referred to as fee appraisal or bank appraisal, which normally determines a value of a particular property as of a given date. Differs from mass appraisal, which systematically appraises groups of properties as of a given date using standardized procedures and statistical testing.”¹²

Legislative Intent: *The intent of this amendment is to make clear that the mass appraisal technique shall fade into the background when valuation is contested by a property owner. A property market sale or single-property appraisal shall be the preferred method of valuation.*

Therefore, [Amended] AS 29.45.180(a) Corrections would read as follows:

(a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor [~~may~~] ***shall*** correct errors or omissions in the roll before the board of equalization hearing.

Legislative Intent: *The intent of this amendment is to require the correction of errors or omissions in the roll before the BOE hearing.*

Decline-In-Value

Therefore, [New] AS 29.45.110(e), would read as follows:

(e) The provisions of this subsection apply to determine the full and true value of property that qualifies for decline in value as follows:

- 1. The current market value of property is less than the current assessed value as of January 1,**
- 2. A Decline in Value Review Application must be filed with the municipality's Assessor's Office between July 1 and November 1,**
- 3. The best supporting documentation is a sale of the property, two (2) comparable sales, or a single-property appraisal.**

Legislative Intent: *The intent of this amendment is to provide for a reduction in assessed value for properties when the current market value of the property is less than the current assessed value as of January 1. Pursuant to the Cacciola Legal Opinion Letter the municipality shall issue decline-in-value corrected notices or a supplementary assessment tax roll evidencing the decline-in-value.¹³*

Burden of Proof

Statute states appellants must overcome the burden of proof during assessment hearings but fails to identify standards for meeting the threshold of proof beyond a preponderance of evidence.

AS 29.45.210 (b) “The appellant bears the burden of proof. The only grounds for adjustment of assessment are proof of unequal, excessive, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing.”

A need to codify a standard for meeting the burden of proof can be illustrated by an occurrence during a Haines BOE hearing on July 20, 2023. The appellant received an assessment notice for \$616,000. A corrected assessment notice was also issued in the amount of \$864,000. A third recommended assessment value of \$1,100,000 was then presented at the Board of Equalization hearing. The history of multiple assessment values did not instill confidence in the accuracy of the assessment tax role. The final recommended assessed value of \$1,100,000 was perceived by the appellants as retaliatory for pursuing relief to the Board of Equalization.¹⁴

During the hearing on this case BOE members expressed their belief that an appellant met the burden of proof beyond a preponderance of evidence. However, they were dissuaded from finding in the appellant’s favor by the mayor, who was acting as a non-voting chair of the meeting. He argued that the assessor’s replacement cost-new mass appraisal assessment of \$1,100,000 should be upheld over the full and true value of \$620,000 established by an independent single-property appraisal.¹⁵

The BOE members received retraining from the State Assessor before their next hearing on September 21, 2023. During the training the BOE members were encouraged to side with the assessor because of “the need for uniformity”. The State Assessor argued that even if the mass appraisal model consistently established assessments at 150% or even 200% of market value the BOE should find in favor of the assessor because if the assessment is adjusted to full and true market value then the property owner’s tax payment would be out of balance with other property taxpayers.¹⁶

The circular reasoning of arguing that an assessment in excess of full and true value should be upheld due to mass appraisal methodology that systematically over assesses properties is nonsensical. It also fails to uphold statutes requiring property to be assessed at full and true value. Assessors must be held accountable to a higher standard than the computer-assisted mass appraisal system to obtain fair market value.

The failure of statute to identify standards for overcoming the burden of proof has created an environment where the assessments that are in excess of market value are consistently being upheld by BOEs. This has emboldened assessors with a belief that they can wield unchecked power in unjust actions against property owners.

Another Haines property owner received a threat from the assessor’s office that his assessments would increase if he did not drop his appeals. The appellant continued his appeals and ninety minutes before the deadline for his final submission of documents to the BOE hearings he received an email that all four properties would be increased. The appeal was scheduled before the Haines Borough BOE on October 5, 2023¹⁷ The appellant felt the increases of all four of the properties was retaliatory because the assessment increases were without requests for new information or site visits.¹⁸

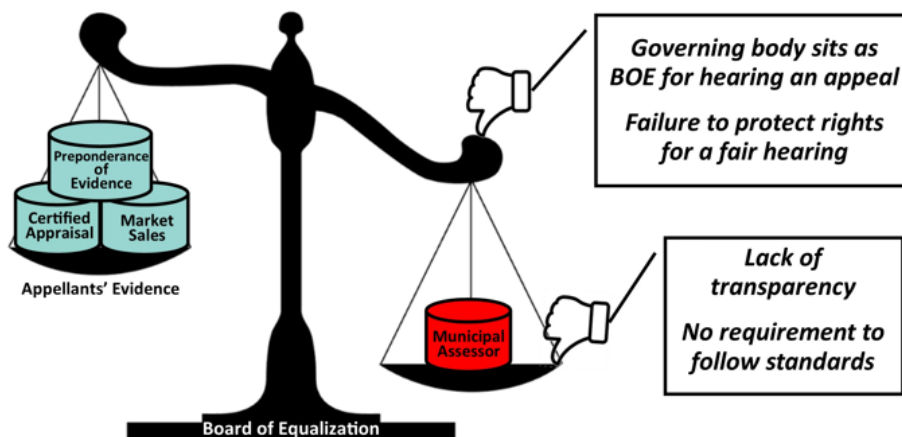
Establishment of standards in statute and eliminating the ability for increasing assessments on appeal protects the public’s right to due process and equal protection of the laws as provided in Amendment XIV of the US Constitution.

Burden of Proof – Statutes Proposal

Therefore, [Amended] AS 29.45.210(b), would read as follows:

(b) The appellant bears the burden of proof, however if the assessor does not treat the review as a single-property appraisal the burden of proof shifts to the municipality. The only grounds for adjustment of assessment are proof of unequal, excessive, or improper ~~[or under]~~ valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. Evidence of grounds for adjustment may be provided with a sale of the property, two (2) comparable sales, or an independent single-property appraisal. If a valuation is found to be too low, the ~~[board of equalization]~~ assessor may raise the assessment during the next year's assessment process. The board of equalization's decision shall be based on a majority vote.

Legislative Intent: *The intent of this amendment is to make clear that the mass appraisal method technique shall fade into the background when valuation is contested by a property owner. The appellant shall have a clear understanding of the evidence required to overcome the burden of proof. Time limits for an increase in assessment allow for the taxpayer to budget for the increase in the coming year.*



Board of Equalization

The First Amendment rights of appellants are violated when the citizens' elected representatives are serving as BOE members due to ex parte communication restrictions¹⁹, thereby denying the citizen the right to redress grievances with their government.²⁰

AS 29.45.200 (a) "The governing body sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it."

The 2023 property tax assessment for Haines resulted in such a loss of public trust that a formal public apology was issued by the newly elected mayor. The mayor's apology acknowledged process failings and stated, "We are sorry for the upset this has caused for not fully anticipating the problems that arose this year and for the time it took the government to fully understand and appreciate the concern of taxpayers."²¹

The reason for this apology was a slew of failures by the local government to uphold proper procedures, combined with unprofessional and improper actions by officials. While this came to light locally, it was the failure of state statutes that enabled these violations to occur. For example, AS 29.45.200 which designates elected officials of the governing body to serve as BOE members unless it delegates this authority.²²

The Haines BOE is made up of the Borough's assembly members. When process concerns, unprofessional and unjust actions from the assessor's office started occurring appellants were unable to reach out to their elected officials to make them aware of what was happening. Residents' only option was to address the issues with the Borough Manager, who refused to respond to the public's concerns.²³

Without the ability to have direct communication with their constituents, the Assembly members slowly discovered the public’s concerns during the six months that BOE appeals were ongoing. It was only after the BOE hearings were completed that the Assembly members understood the full extent of process failures and unjust actions that plagued the 2023 assessment process. If the Assembly members were not also serving as BOE members, residents could have made them aware of their concerns and swift action could have been taken, preserving the public’s trust in their government.

A statutory requirement for municipalities to establish a pool of unelected Board of Equalization members will protect citizens’ right to petition their government for a redress of their grievances as guaranteed in Amendment I of the US Constitution.

Board of Equalization – Statutes Proposal

Therefore, [Amended] AS 29.45.200(a), would read as follows:

(a) The governing body [~~sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to~~] **shall appoint a pool of individuals for** one or more boards **to serve as a board of equalization** [~~appointed by it. An appointed~~] **The** board may be composed of not less than three persons, who shall be [~~members of the governing body,~~] municipal residents **not of the governing body.** [~~or a combination of members of the governing body and residents.~~] The governing body shall by ordinance establish the qualifications for membership.

Legislative Intent: *The intent of this amendment is to protect citizen’s first amendment right to redress their government by requiring municipalities to establish a pool of BOE members from residents that are not elected representatives.*

BOE Proceedings

The Fourteenth Amendment of the US Constitution guarantees to Citizens that no State may “*deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*”²⁴

***AS 29.45.200 (b) “The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure.*”**

Statute establishes that appellants bear the burden of proof but fails to protect due process to guarantee appellants their right to a fair hearing. Alaska statutes have no provisions to require: ²⁵

- Sufficient notice of appellants’ hearing date for continuation hearings.
- Assessor’s office staff reports to be provided with sufficient time for an appellant to prepare for the hearing.
- Receive full discovery of all information used to establish value of a property including sales used and / or excluded in mass appraisal data.
- The ability to reject a BOE panel member, which is a normal part of the selection of jurors.
- Assessment to be based on recognized uniform standards of appraisals.

A statutory requirement is needed to ensure municipalities establish procedures to protect property owner’s rights to fair hearings and due process as guaranteed in Amendment Fourteen of the US Constitution.

BOE Hearing Process – Statutes Proposal

Therefore, [Amended] AS 29.45.200(b), would read as follows:

(b) The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure and protective of appellants' rights to a fair hearing with due process of law and equal protection of the laws. The board may alter an assessment of a lot only pursuant to an appeal filed as to the particular lot.

Legislative Intent: *The intent of this amendment is to require municipalities to establish procedures to protect property owners' rights to fair hearings and due process as of law.*

Therefore, [New] AS 29.45.210 (e) & (f), would read as follows:

(e) A BOE member shall voluntarily seek disqualification and withdraw from a case in which the member cannot accord a fair and impartial hearing or consideration. An appellant may request the preemptory disqualification of a BOE member by filing an affidavit before the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

(f) An appellant may raise a denial of due process claim. A due process claim that is filed before or during the BOE hearing must be resolved immediately prior to any other action regarding the appeal in question. If due process is found to have been violated the burden of proof shifts to the municipality. The filing of said claim shall become part of the BOE hearing record.

Legislative Intent: *The intent of this amendment is to provide appellants with the opportunity for a fair hearing by impartial BOE members and ensure appellant's due process of law.*

Licensing

“In the State of Alaska, there is no licensing for assessors, other than a business license... Although some municipalities require certain levels of certification with the Alaska Association of Assessing Officers.”²⁶

AS 8.87.330 “This chapter does not apply to a person who appraises real estate as part of the tax assessment process of a municipality.”

In Alaska the real estate profession is highly regulated. You cannot sell²⁷, appraise²⁸, or even inspect²⁹ real estate without a license issued by the State of Alaska. However, assessors are not held to the same level of accountability as other real estate professionals.

This is of concern given that assessors are held in such high regard they have the authority to determine the tax liability for property owners in a municipality and are assumed to be correct in BOE hearings. Despite this fact, the State of Alaska does not require an assessor to be held accountable by a licensing board. The state has specifically provided an exemption to licensing requirement in statute.³⁰

Alaska Statutes have established Title 8 Business and Professions with a Centralized Board Organization to regulate professional licensing in Alaska. Statutes have been established to regulate industries ranging from Acupuncturists to Veterinary professionals.³¹ Licenses are required for numerous professionals to protect the public’s interest. They are so commonplace in our society, even the person cutting your hair or providing a manicure must be licensed.³² However, the State of Alaska fails to protect the public by requiring the person presumed to be correct in a quasi-judicial BOE hearing to maintain credentials.³³

Requiring licensing for municipal appraisal services for tax assessment purposes would assure the public that assessors maintain professional qualifications and are held accountable by a licensing board to perform based on professional standards.³⁴

Licensing – Statutes Proposal

Therefore, [Eliminate] AS 08.87.330, as follows:

~~[AS 08.87.330 “This chapter does not apply to a person who appraises real estate as part of the tax assessment process of a municipality.”]~~

Legislative Intent: *The intent of this amendment is to protect the public’s interest with licensing requirements to ensure municipal appraisers are held to a professional level by requiring them to: meet educational requirements, annual continuing education, perform their duties to industry standards, and be held accountable by a licensing board.*

Professions Licensed

All professions licensed by this division are listed in the drop-down menu below. For applications, statutes, and to be directed to that program's web page, click on the profession you are interested in.

If you are an active-duty military member or military spouse with orders to Alaska, please click [here](#) to obtain any professional license.

- Acupuncturists
- Architects, Engineers, and Land Surveyors
- Athletic Trainers
- Audiologists & Speech-Language Pathologists
- Barbers & Hairdressers
- Behavior Analysts
- Big Game Commercial Services Board
- Chiropractic Examiners
- Collection Agencies
- Concert Promoters
- Construction Contractors
- Dental Examiners
- Dietitians & Nutritionists
- Dispensing Opticians
- Electrical Administrators
- Euthanize Domestic Animals
- Geologists
- Guardians & Conservators
- Hearing Aid Dealers
- Home Inspectors
- Marine Pilots
- Marital & Family Therapy
- Massage Therapists
- Mechanical Administrators
- Medical Board
- Midwives
- Morticians
- Naturopathy
- Nursing
- Nurse Aide Registry
- Nursing Home Administrators
- Optometry
- Pawnbrokers
- Pharmacy
- Physical Therapy & Occupational Therapy
- Prescription Drug Monitoring Program
- Professional Counselors
- Psychologist and Psychological Associate
- Public Accountancy
- Real Estate Appraisers
- Real Estate Commission
- Social Work Examiners
- Telemedicine Business Registry
- Underground Storage Tank Worker
- Veterinary Examiners

Conclusion

The property tax assessment process has recently become an issue of concern to property owners in Alaska. Misapplications of the mass appraisal technique using replacement cost-based models have resulted in wrongfully inflated assessments. The excessive assessments combined with retaliatory increases from the assessor's office in response to appeals has resulted in a loss of public trust in Alaska's property assessment process.

The assessment issue was of such a great public concern in Haines that a citizen's petition for assembly action regarding 2023 assessments issues resulted in bipartisan support and hundreds of signatures in a few days.³⁵ In response to the public's concerns the Haines Mayor issued a formal apology acknowledging process failings and "for the upset this has caused for not fully anticipating the problems that arose and the time it took for the government to fully understand and appreciate the concerns of taxpayers."³⁶

While these issues have become known at a local level, the catalyst is due to the failure of Alaska's municipal taxation statutes to protect individuals' rights and the public interest from unjust actions.

This document highlights real-world examples of how the unintended consequences of Alaska's property tax assessment process negatively impacted property owners. In the name of "uniformity" mass appraisals using cost-based methodologies are resulting in assessments more than full and true value. The excessive assessments are then upheld by local Boards of Equalizations through an intimidating process that is often adversarial to appellants.

Property tax assessments should not be an adversarial process. Alaska's property assessment process can be easily modified through statutes to protect the public from unequal and arbitrary valuation practices. Statewide policies and statutes must be written to protect the public interests and individuals' rights to due process. Otherwise, the government risks losing the trust and respect of the people they serve.

Notes

- ¹ *AS 29.45.110(a) Full and True Value*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#29.45.110>. “The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.060, and 29.45.230. The full and true value is the estimated prices that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.”
- ² 2020. *Uniform Standards of Professional Appraisal Practice*. The Appraisal Foundation. p.5
- ³ Sande, Julie, and Sandra Moller. "Alaska Taxable 2022." Department of Commerce, Community, and Economic Development. State of Alaska, www.commerce.alaska.gov/web/.
- ⁴ Johnson, Marion, Chris Benner, Sandra Patterson, and Justin Fletcher. 2003. *Assessment Administration*. 3rd ed. International Association of Assessing Officers.
- ⁵ *Goldstein Improvement Company vs. City and Borough of Juneau Board of Equalization*. Superior Court, First Judicial District at Juneau, Case Nos. 1JU-22-00756 CI and 1JU-22-00786 CI
- ⁶ The CBJ assessor used 2018 Marshall and Swift building costs which were outdated and unreliable for Juneau because of the uniqueness of Juneau with higher labor and material costs than jurisdictions outside. Julie Dinneen, the MAI appraiser, who was a contract assessor the CBJ, refused to consider the Cost Approach in her appraisals because using actual building costs (commercial @ \$700/SF per Northwind Architects) resulted in high-cost approach models that did not work. The CBJ assessor should have concluded the same instead of “backing into” building costs while arguing that using actual building costs would put upward pressure on property valuations.
- ⁷ Schoenfeld, Ed. *Tax-cap Drive Likely to Make Ballot. Juneau Empire* (Juneau, AK), July 5, 1995.
- ⁸ Caissie, Joseph. *State Assessor, BOE Refresher Training*. Appraisal Report. Haines Borough, September 21, 2023. <https://www.hainesalaska.gov/lands/boe-refresher-training>.
- ⁹ *HBC 3.70.010 Annual Tax Levy*. www.HainesAlaska.Gov. <https://hainesborough.borough.codes/HBC/3.70.010>. D “The borough may not levy a tax for any purpose in excess of one percent of the assessed value of property in the borough with the following exceptions: 1. Taxes levied or pledged to pay or secure the payment of the principal and interest on bonds as provided in AS 29.45.100; 2. Taxes voluntarily requested by the board of a road maintenance service area in order to maintain or obtain services that might otherwise be limited by a tax cap.”
- ¹⁰ CBJ Code 9.7(c) Adopted by voters on October 3, 1995. *CBJ Voters Approved a 12-mill Property Tax Restriction*. www.Juneau.Org. City and Borough of Juneau, <https://juneau.org/finance/sales-tax/mill-rate>. “In 1995, the CBJ voters approved a 12-mill operational property tax levy restriction on taxable property. This means that the City Assembly cannot raise the mill rate above 12 mills (\$12 for every \$1,000 in taxable property value) to support general government operations. This restriction does not apply to tax levies for the debt service on general obligation bonds. Debt service is the amount required to cover the repayment of interest and principal on voter-approved bonds and is in addition to the operational mill levy.”
- ¹¹ Detailed explanation provided in Appendix A.
- ¹² *IAAO Glossary for Property Appraisal and Assessment*. 3rd ed. International Association of Assessing Officers.

Notes

- ¹³ Cacciola, Charles A. Letter to Annette Kreitzer, Haines Borough Manager. *Memorandum Redoing 2023 Assessments*, October 16, 2023. [See Appendix D.](#)
https://www.hainesalaska.gov/sites/default/files/fileattachments/boards_and_commissions/meeting/33064/2023.10.16_memo_re_reassessment.pdf
- ¹⁴ *Canfield Appeal # 2023-90*. Haines Borough Board of Equalization. July 20, 2023.
https://www.hainesalaska.gov/sites/default/files/fileattachments/lands/meeting/32944/7b_boe_3-mql-02-0400_canfield-remand_response.pdf.
- ¹⁵ *Canfield Appeal # 2023-90*. Appraisal Report. Haines Borough, July 20, 2023.
https://www.hainesalaska.gov/sites/default/files/fileattachments/lands/meeting/32944/7b_canfield-independent_appraisal.pdf.
- ¹⁶ Caissie, Joseph. *State Assessor, BOE Refresher Training*. Appraisal Report. Haines Borough, September 21, 2023.
<https://www.hainesalaska.gov/lands/boe-refresher-training>.
- ¹⁷ *Smith Appeals # 2023-122, 2023-123, 2023-124 & 2023-212*. October 5, 2023. Haines Borough Board of Equalization.
<https://www.hainesalaska.gov/lands/board-equalization-continuation-1>.
- ¹⁸ *Smith Appeals # 2023-122, 2023-123, 2023-124 & 2023-212*. BOE October 5, 2023, Continuation. Haines Borough Board of Equalization, October 11, 2023. <https://www.hainesalaska.gov/lands/continuation-october-5-september-28-boe-meeting>.
- ¹⁹ AS 44.62.630. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#44.62.630>.
- ²⁰ *United States Bill of Rights - First Amendment*. Constitution.Congress.Gov. December 15, 1791.
<https://constitution.congress.gov/constitution/amendment-1/>. “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assembly, and to petition the Government for a redress of grievances.”
- ²¹ *Haines Borough Formal Apology for Property Tax Issue*. Mayor's Corner. Haines Borough, November 14, 2023.
<https://www.tommorphet.com/mayors-corner/>. “I'd like to make a formal apology to the public for the property tax assessment situation.”
- ²² AS 29.45.200. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#29.45.200>.
- ²³ *Josephson Appeal # 2023-226*. Haines Borough Board of Equalization October 18, 2023.
https://www.hainesalaska.gov/sites/default/files/fileattachments/lands/meeting/33031/7f-josephson_supplemental_point_of_order_process_errors_2023-226.pdf.
- ²⁴ *United States Bill of Rights - Fourteenth Amendment, Section 1*. Constitution.Congress.Gov. December 15, 1791.
<https://constitution.congress.gov/constitution/amendment-14/>. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Notes

²⁵ AS 29.45.200. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#29.45.210>.

²⁶ Kreitzer, Annette. *Memo Assembly Work Session - Tax Assessments*. Haines Borough, October 28, 2023. https://www.hainesalaska.gov/sites/default/files/fileattachments/borough_assembly/meeting/33044/1_-_tax_assessment_work_session_memo_103023.pdf.

²⁷ AS 08.88 *Real Estate Brokers and Other Licensees*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.88>.

²⁸ AS 08.87 *Real Estate Appraisers*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.88>.

²⁹ AS 08.18 *Construction Contractors and Home Inspectors*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.18>.

³⁰ AS 08.87.300 *Real Estate Appraisers, Exemptions*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.87.330>.

³¹ AS 08.01.010 *Business and Professions, Centralized Licensing, Applicability*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.01.010>.

³² AS 08.13 *Barbers and Hairdressers*. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.13>.

³³ AS 08.87.330. Alaska State Legislature. State of Alaska, <https://www.akleg.gov/basis/statutes.asp#08.87.330>.

³⁴ IAAO Mass Appraisal Specialist (MAS), *"The purpose of the MAS designation is to recognize professionalism and competency in a wide range of matters covering mass appraisal theories, techniques, and application. Professional designees will be able to use this designation in conjunction with the valuation of a wide range of property types, property appraisal and assessment administration issues and property tax policy statements in accordance with IAAO's commitment to excellence."*

https://www.iaao.org/wcm/Education/IAAO_Designations/MAS/wcm/Designations_Content/MAS.aspx

³⁵ Paul Rogers, *Agenda Request for Assembly Action to Cancel Contract with Dahle Enterprises*. Haines Borough, November 14, 2023. https://www.hainesalaska.gov/sites/default/files/fileattachments/borough_assembly/meeting/32762/11c5_-_request_for_assembly_action.pdf

³⁶³⁶ *Haines Borough Formal Apology for Property Tax Issue*. Mayor's Corner. Haines Borough, November 14, 2023. <https://www.tommorphet.com/mayors-corner/>. *"I'd like to make a formal apology to the public for the property tax assessment situation. The borough has struggled with the assessment process for years, perhaps decades. We fell behind in getting values done and this year we had an overwhelming number of appeals. There's no question that we are in a state of need. We appreciate the work that's been done and continues to be done by a committed group of residents who have brought forth issues with – and failings of – our process. We are sorry for the upset this has caused, for not fully anticipating the problems that arose this year, and for the time it took for government to fully understand and appreciate the concerns of taxpayers. We are working as fast as we can to fix the assessment system and to make it right for both the Haines Borough and property taxpayers."*

APPENDIX A

Property Assessments Greater Than Full and True Value Circumvent Voter-Enacted Millage Tax Caps

A municipality's budget fluctuates from year to year. Property taxes are calculated using the millage rate to establish what percentage is owed each year on any given assessment. Some communities have enacted voter-approved mill rate caps to serve as checks against skyrocketing budgets, effectively requiring a municipality to live within its means.

However, if a tax assessment methodology is adopted that consistently assesses property in excess of full and true value, then these voter-enacted millage cap rates are circumvented. Press releases promoting millage rate decreases (e.g. 10.56 to 10.55) while assessments are falsely inflated, misrepresents the tax burden being placed on the public. (Appendix D)

The illustration below exemplifies how over-assessing property can result in the circumvention of the will of the people who have enacted millage rate caps:

Illustration:

If the market value of the home is \$800,000 and the mil rate is 10.56, then the property tax=\$8,448

If the market value of the home is \$800,000 and the mil rate is capped at 12, then the property tax=\$9,600

If the assessment of the home is increased by 50% more than market value, and the mil rate is lowered to 10.55, then the property tax=\$12,660

If the assessment of the home is increased by 100% more than market value, and the mil rate is lowered to 10.55, then the property tax=\$16,880

The municipality in this example saw the advantage of increased assessed value by any means, to raise \$7,280 more property tax collected than permitted under a millage rate cap of 12.

APPENDIX B

1. [Juneau, Alaska - Code of Ordinances](#)
2. [PART I - HOME RULE CHARTER](#)
3. [ARTICLE IX. - FINANCIAL PROCEDURES](#)
4. [Section 9.7. - Assembly action on budget.](#)

Section 9.7. - Assembly action on budget.

(a)

The assembly by ordinance shall adopt a budget by June 15. If it fails to do so, the budget submitted by the manager shall be deemed adopted by the assembly as the budget for the following year.

(b)

The assembly by ordinance adopted before June 15 shall provide for the tax levies required in the budget. If it fails to do so, the tax levies required in the budget shall be deemed adopted by the assembly.

(c)

Except as provided in this section, the assembly shall not levy on real or personal property any tax exceeding the total of 12 mills plus that additional millage required to service general obligation indebtedness. The assembly may levy a tax exceeding this total only after seeking and securing voter approval by a majority of those voting on the question at a general or special election.

(Adopted by the voters on October 3, 1995, regular election; Serial No. 93-22am, § 3, 1993/10-5-1993)

APPENDIX B (Continued)

July 5, 1995

Juneau Empire

Tax-cap drive likely to make ballot

By Ed Schoenfeld

Tax-cap drive likely to make ballot

By ED SCHOENFELD

THE JUNEAU EMPIRE

An initiative to cap Juneau property tax rates appears to have enough signatures to get on the ballot.

City officials began checking petitions today to determine if supporters gathered the 82 signatures they were short after the first batch of petitions was turned in last month.

The 297 new signatures make it

likely the initiative will reach its goal and appear on the Oct. 3 ballot, said city clerk Patty Ann Polley.

"I never know until I check them, but I assume that's enough," Polley said today.

The initiative would cap property taxes at slightly more than their current level.

It would set a 12-mill cap on the part of the tax used to fund general government services, such as

street cleaning and police patrols. It would not cap property taxes needed to pay off debts on voter-approved bond sales for new schools, extending the water system and other city projects.

The current 13.06-mill areawide property tax rate includes 11.62 mills for general services and 1.44 mills for bond debt.

A mill is a \$1 tax on each \$1,000 of property. Under the current rate, a \$150,000 home is charged

\$1,959 in taxes.

Petition drive organizer Gary Jenkins said the tax cap would limit the burden of city programs on property owners.

"I'm a little concerned when I look down the road about the pressure on the assembly to fund some significant shortfalls from the state and federal government solely from property taxes," said Jenkins.

Some services, such as city bus-

es, should be funded by increasing user fees, he said.

Most Juneau city-borough assembly members said they support keeping property taxes low, but not by capping taxes.

Member Dwight Perkins said the cap could force the city to cut fire, police, sewer and other services Juneau residents have supported expanding.

"I don't know if people want to

Please see Tax, back page

Tax...

Continued from Page 1

go back the other way. I could see a negative impact on our community," Perkins said.

Member Al Clough said voters already have a chance to voice their opinions on taxes.

"If the voters don't think the assembly is acting responsibly, they have the avenue of getting rid of us," Clough said.

Jenkins said the proposed cap is flexible because it allows voters to increase taxes through a ballot measure. Assembly members said a special election would be needed, which would be expensive.

Tax-cap supporters began collecting signatures several months ago, turning in 3,043 names in June.

About 350 were illegible, lacked

a street address or were otherwise unverifiable; cap supporters were given an extra 10 days to fill the gap.

The new petitions were turned in late Friday and Polley said she expected her staff to finish checking them by late today.

Juneau residents and businesses are expected to pay about \$21.5 million in property taxes this July-to-June fiscal year. That's about 16 percent of the city's projected \$131.6 million budget, which includes schools, Bartlett Memorial Hospital and general city services.

Sales tax revenues are expected to total \$20 million, while state funds are expected to total about \$32.4 million, said city finance director Craig Duncan.

The tax cap initiative is the only citizen-sponsored ballot measure submitted to city officials this

year, Polley said.

The assembly is expected to put a \$9 million police headquarters bond issue on the ballot. They will also ask voters to reauthorize 3 percent of Juneau's 4 percent sales tax, which funds city operations, public works projects and a "Rainy Day" savings account, said city manager Dave Palmer.

The Oct. 3 ballot will also include elections for mayor, three assembly seats and two school board seats.

Open seats include those held by Mayor Dennis Egan; assembly members Clough, Cathy Engstrom Munoz and John MacKinnon; and school board members Sally Rue and Dale Staley.

APPENDIX B (Continued)

HAINES BOROUGH CODE

A Codification of the General Ordinances of the Haines Borough, Alaska

3.70.010 Annual tax levy.



- A. The assembly shall annually by ordinance levy:
1. A borough-wide property tax for municipal functions;
 2. A property tax in improvement districts and service areas for functions related to each improvement district and service area; and
 3. An area-wide property tax for area-wide functions.
- B. The assembly shall annually, by ordinance or resolution, establish the rate of levy on assessed property within the borough. The annual rate of levy shall be determined before June 15th.
- C. The rate of levy shall be uniform on all real property on the assessment roll except as provided for in HBC 3.70.060 through 3.70.070.
- D. The borough may not levy a tax for any purpose in excess of one percent of the assessed value of property in the borough with the following exceptions:
1. Taxes levied or pledged to pay or secure the payment of the principal and interest on bonds as provided in AS 29.45.100;
 2. Taxes voluntarily requested by the board of a road maintenance service area in order to maintain or obtain services that might otherwise be limited by a tax cap. (Ord. 09-05-207 § 4; Ord. 09-01-198)

APPENDIX B (Continued)


April 28, 2011

Chilkat Valley News

Millage Tax Cap Letter to The Editor Borough should pass balanced budget

By Mike Armour



	News	Letters	Duly Noted	Blotte
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Borough should pass balanced budget

By CVN Staff



April 28, 2011

Ten years ago I sponsored two budget-related initiatives in response to what I perceived as a threat to our community's long-term, economic well being. At that time the borough's total budget was just over \$6 million, and its then almost completely depleted reserve account had been used regularly to make up for constant overspending. Something had to be done to protect our residents from excessive taxation and to insure that our government lives within its means.

Those initiatives included the now infamous "tax cap," which lowered the allowable limit on our mill rate to 10 mils, and another that required a balanced budget. Since their passage, the tax cap has become the whipping boy for every budgetary problem in the borough's annual spending plan. And if you're wondering what happened to the balanced budget initiative, well it's been quietly ignored by every successive administration since you voted it into law.

Today the borough's spending plan is a staggering \$13.9 million, over twice what it was just a few short years ago, and according to the April 7 CVN article, it's still not enough. So even though the borough has managed to double its revenue stream in those intervening years with that awful tax cap in place, we're now being asked to consider doing away with it. I have a better suggestion for this administration: Learn to live within your means, and pass a balanced budget.

Mike Armour

APPENDIX C

Juneau Assembly passes budget reducing the property tax rate

June 15, 2021 – [News](#)

After two months of budget work by the Assembly Finance Committee, the Juneau Assembly passed the [Fiscal Year 2022 budget](#) at Monday night's Regular Assembly Meeting. The Assembly voted to lower the [property tax rate from 10.66 mills to 10.56 mills](#) – the lowest property tax rate since 2013. The new budget, which begins July 1, expands the Assembly's support for childcare services and also restores money to the [Capital Improvement Plan](#), including improvements to the Augustus Brown Pool.

The \$420.9 million budget includes reduced projections of sales tax revenues and cruise ship passenger fees in anticipation of limited large cruise ship visitation this current summer. To offset these depressed revenues, the budget utilizes CBJ's \$12.8 million allocation of federal stimulus funds from the American Rescue Plan Act to replace lost revenues in FY21 and FY22. Application of this federal aid to offset lost revenues in FY21 reduced the anticipated \$2.8 million deficit to zero, and in FY22 reduces the projected \$15.8 million deficit to \$5.9 million.

Despite being faced with a deficit, the Assembly maintained all essential city services while lowering the property tax rate to 10.56 mills. Even with the lower property tax rate, CBJ will collect approximately \$3.0 million more in property tax revenue in FY22 as a result of a substantial growth in property valuations, including a considerable adjustment to the value of commercial land. The Assembly still needed to draw from savings to cover a remaining budgetary shortfall.

The Assembly also restored \$6.9 million of temporary reductions to the Capital Improvement Plan that were made in FY21 to balance the budget, including the \$3.3 million Augustus Brown Pool deferred maintenance project.

For more information, contact Finance Director Jeff Rogers at 723-6907 or jeff.rogers@juneau.org.

“Juneau Assembly Passes Budget Reducing the Property Tax Rate – City and Borough of Juneau.” n.d. Juneau.org. Accessed November 29, 2023. <https://juneau.org/newsroom-item/juneau-assembly-passes-budget-reducing-the-property-tax-rate>.

APPENDIX C (Continued)



CBJ Mill Rate

The adopted operating mill levy for FY22 is 9.36 mills, a decrease over FY21 of 0.10 mills. The FY22 debt service mill levy is 1.20 mills, flat over FY21. This brings the total FY22 mill levy to 10.56, which is a reduction of 0.10 mills from FY21.

The CBJ has three overlapping taxing areas (Areawide, Roaded and Fire) plus a separate debt service mill levy. Property may be subject to taxation based on one, two, or all three of these levies, plus the debt service mill levy. Approximately 90.2% of taxable property is subject to the combined overlapping mill levy for the three taxing areas. A levy of one mill, assessed borough-wide, generates approximately \$5.4 million in property tax revenues.

Understanding the mill rate: One mill is equal to one tenth of one percent (0.1%). In terms of dollars, one mill equals \$1 per thousand dollars in taxable property value. The current mill rate is 10.56. That means that for every \$1,000 in taxable property value, there is a tax of \$10.56.

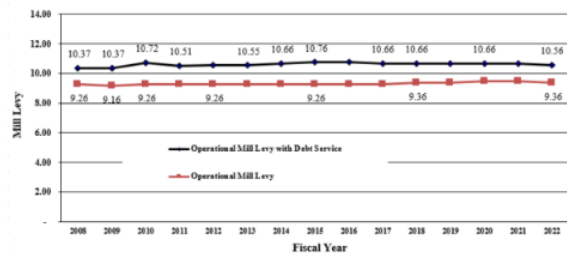
In 1995, the CBJ voters approved a 12-mill operational property tax levy restriction on taxable property. This means that the City Assembly cannot raise the mill rate above 12 mills (\$12 for every \$1,000 in taxable property value) to support general government operations. This restriction does not apply to tax levies for the debt service on general obligation bonds. Debt service is the amount required to cover the repayment of interest and principal on voter-approved bonds and is in addition to the operational mill levy.

Applying the mill rate: This example assumes \$300,000 in taxable property, located in all three operational areas (Areawide, Roaded, and Fire Service).

- \$300,000 (property value) = 300 (number of thousands) x \$1,000
- 300 (number of thousands) x 10.56 (total mill rate) = \$3,168 (annual property tax)
- Of that \$3,168 in property tax:
 - \$2,808 per year or \$234 per month helps support all aspects of local government including schools, police, fire protection, roads and sidewalks, libraries, parks, recreational opportunities, public transportation, etc.
 - \$360 per year or \$30 per month pays for the voter-approved bonds

Mill Levy

	FY19	FY20	FY21	Adopted FY22
Operational				
Areawide	6.70	6.70	6.70	6.60
Roaded Service Area	2.30	2.45	2.45	2.45
Capital City Fire/Rescue	0.36	0.31	0.31	0.31
Total Operational	9.36	9.46	9.46	9.36
Debt Service	1.30	1.20	1.20	1.20
Total Mill Levy	10.66	10.66	10.66	10.56
Mill Change	-	-	-	(0.10)
% Change	-	-	-	(0.01)



“Finance – CBJ Mill Rate – City and Borough of Juneau.” n.d. Juneau.org. Accessed November 29, 2023.

<https://juneau.org/finance/sales-tax/mill-rate>.

APPENDIX C (Continued)



[Home](#) [News](#) [Letters](#) [Duly Noted](#) [Blotte](#)

Budget introduced, property tax rate decreased

By Kyle Clayton

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April 27, 2023

In an effort to blunt the effects of a roughly 16% percent increase in property tax assessments this year due to the implementation of a new mass appraisal system, borough manager Annette Kreitzer recommended lowering property taxes in her manager's budget.

In the townsite, she recommended decreasing the mil rate by 9%. Boroughwide, she recommended lowering the rate by 11%. Despite the proposed reductions, property tax revenue is expected to increase by \$101,000 in the general fund and up \$33,000 in the townsite service area fund.

Total revenues are up \$269,064 in the general fund compared to last fiscal year and up \$42,187 in the townsite service area fund. Sales tax is expected to climb by \$109,000 compared to last fiscal year. Sales tax lodging is expected to increase by \$32,000.

"Infrastructure" is the theme of borough manager Annette Kreitzer's budget that was introduced to the assembly Tuesday.

"Government should provide and maintain basic infrastructure upon which opportunities can expand," Kreitzer wrote in her manager's budget. "With adequate infrastructure in place, economic opportunities can build on the availability of these necessary elements."

Kreitzer's list of major changes to the budget include moving the contract and grants administrator position to the public facilities department, increasing the pay of emergency dispatchers due to recruiting shortages, creating a full-time paid fire chief position and requiring nonprofits to request public funding through the assembly's Government Affairs and Services Committee.

Kreitzer said potential decreased revenues will come in the form of a reduction of state revenue, community assistance and community jails contracts. "We appear to be coming to the end of the waterfall of federal and state funding meant to address communities recovering from disasters, Covid pandemic health and economic fall-out, and the economic repercussions to sales tax income due to the visitor industry downturn in 2020-2021," Kreitzer wrote.

She added that expenses in the form of increased fuel, power and shipping costs, staff salary and wage increases, and a potential reduction of the state's school bond debt reimbursement will all impact the budget. The state's school bond debt reduction back to 50% funding would result in a \$448,717 hole in the budget. The borough is prepared to provide \$200,000 to the Haines Borough School District with remaining American Rescue Plan funding.

Kreitzer also cited survey data indicating cruise ship passengers who were dissatisfied during last year's dockings. She raised concerns about the loss of sales tax dollars from passengers who arrive in the late evening hours and have nowhere to spend money. Last year, many of the big ships docked after many Haines businesses closed for the day.

Budget hearings will continue throughout May. The committee of the whole will meet in the assembly chambers Thursday, April 27 at 6:30 p.m. to discuss the areawide general fund and Thursday, May 4 at 7 p.m. to discuss the townsite service area fund. The second public hearing for the budget at the regular assembly meeting is scheduled for May 25 at 6:30 p.m.

Clayton, Kyle. (April 27, 2023). *Budget introduced, property tax rate decreased*. Chilkat Valley News. Retrieved November 29, 2023, from <https://www.chilkatvalleynews.com/story/2023/04/27/news/budget-introduced-property-tax-rate-decreased/16986.html>

APPENDIX D

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MEMORANDUM

TO: Annette Kreitzer
FROM: Charles A. Cacciola
RE: Redoing 2023 Assessments
DATE: October 16, 2023

Haines Borough sent 2023 property tax assessment notices, set a mill rate, and has conducted board of equalization appeals. The assessor and the board of equalization are presently working to resolve the remaining valuation appeals. You asked if the assembly can legislatively vacate the existing 2023 property tax assessments and restart the process.

The assembly may direct the assessor to undertake a systematic reevaluation of taxable property. However, a systematic reevaluation of taxable property does not require vacating existing 2023 assessments and our opinion is that the Haines Borough assembly cannot do so. Vacating the existing assessments could jeopardize the borough's ability to collect 2023 property taxes. An attempt to take this action is likely to result in litigation.

Should the assembly wish to direct the assessor to undertake a systematic reevaluation of taxable property with a view toward adjusting values, it should first devise a detailed plan for correcting assessments and the collateral effects of doing so.

Our view is that a late-in-the-game revisiting of assessments is not an effective means of addressing concerns regarding the 2023 assessment process. Concerns regarding perceived errors in individual assessments must be resolved through appeal to the board of equalization, and, if not satisfactorily addressed by the board, by appeal to the superior court. General public concern as to assessment methods and the integrity of the 2023 assessment process is best addressed by an audit of 2023 assessment procedure.

A. The assembly can order a systematic reevaluation of taxable property. It cannot void existing assessments.

An assembly or council legislating a do-over of a tax year appears to be unprecedented. We reviewed judicial decisions and other published materials at the Alaska Court System's law library and were unable to find an instance of an Alaska municipality taking such action. We also

APPENDIX D (Continued)

inquired with the state assessor and several other municipal attorneys. None was aware of any municipality having taken action of this type. The lack of precedent highlights the extraordinary irregularity of such an action and also means there is little experience to draw from to determine how to accomplish it or what pitfalls may be lurking.

Re-examine after OK

We recently opined that the likely intended purpose of AS 29.45.150 is to enable a municipality to systematically reevaluate a tax year's existing assessments when unusual circumstances require reexamination of the full and true value of taxable property.¹ Under a plausible alternative interpretation of AS 29.45.150, the statute refers to examining all taxable property on a multi-year cycle. If this latter interpretation is correct, AS 29.45.150 does not provide any basis for directing the assessor to revisit the 2023 assessments.

Assuming AS 29.45.150 does *not* refer to the process of examining all property on a multi-year cycle, the assembly may order a systematic reevaluation of taxable property when circumstances justify doing so. But it does not follow that AS 29.45.150 allows an assembly to abandon existing assessments.

✓ Alaska Statute 29.45.150 certainly does not *require* a municipality to begin a systematic reevaluation by vacating the year's existing assessments. Whether doing so is *permissible* is less obvious. We conclude that AS 29.45.150 does not authorize an assembly to vacate or "throw out" existing assessments. This conclusion is based on our review of the statutory regime and judicial precedent, summarized below.

A municipal assessor is required to assess property at its full and true value as of January 1 of the assessment year.² The assessor must then mail a notice of assessment showing the assessed value of the property.³ Property owners have 30 days to appeal the assessment to the board of equalization.⁴

"The board may alter an assessment of a lot *only* pursuant to an appeal filed as to the particular lot."⁵ "The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1."⁶ "A municipality shall annually determine the rate of levy before June 15. By July 1 the tax collector shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest."⁷ These statutes apply to all municipalities that levy property tax, including home rule municipalities.⁸

✓ ¹ Memo re: 2023 Property Tax Assessment & AS 29.45.150 (October 5, 2023).

² AS 29.45.110(a); HBC 3.72.020.

³ AS 29.45.170; HBC 3.72.080.

⁴ AS 29.45.190; HBC 3.72.100.

⁵ AS 29.45.200(b) (emphasis added); *see also* HBC 3.72.110.C.

⁶ AS 29.45.210(c); HBC 3.12.120.D.

⁷ AS 29.45.240(b)

⁸ AS 29.10.200(50).

APPENDIX D (Continued)

✓ A systematic reevaluation of property could result in corrected notices.⁹ It could result in a supplementary assessment roll.¹⁰ It could result in pro rata adjustment to the full and true value of all taxable property.¹¹ But none of these require that systematic reevaluation begin by vacating the existing assessment. The term “reevaluation” suggests that values may *change* through the systematic process. This terminology does not suggest that the existing value is void, but that process could result in corrections or adjustments to existing values. In other words, AS 29.45.150 may authorize a process that *ends* with valuation changes but not one that *begins* with the municipality walking away from the existing values.

This interpretation of systematic reevaluation coheres with concepts that appear throughout AS Chapter 29.45. Numerous statutes speak to correcting errors and omissions and adjusting values.¹² Alaska Statute 29.45.230 even allows “reassessment” in specific circumstances. Conversely, no statute contemplates a wholesale “do over.” No obvious policy would be furthered by voiding or vacating existing valuations to conduct a systematic reevaluation and doing so would conflict with clear legislative policies furthered by the statutes.

Deadlines and finality are an essential feature of the assessment and taxation process. Once the assessor certifies the assessment roll and makes any corrections and amendments required by law, the certified roll is “valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment roll or proceedings pertaining to the assessment roll.”¹³ The only exception is amendment to conform to a successful appeal to the superior court.¹⁴

The statutory deadlines for assessment of taxes, setting of mill rate, and mailing tax statements are construed as directory.¹⁵ A municipality’s failure to meet the deadlines does not automatically invalidate its decisions.¹⁶ In the absence of strict compliance, a municipality must demonstrate substantial compliance with the requirements and purposes of the statute.¹⁷ “Where the local government’s action fails to meet the substantial compliance test, however, prejudice to the taxpayer will be presumed and the tax or assessment will be overturned.”¹⁸

The Alaska Supreme Court’s precedent on substantial compliance also weighs against interpreting AS 29.45.150 to authorize an assembly to vacate assessments, at least insofar as doing so would result in the municipality failing to adhere to the statutory deadlines. The court suggested that substantial delays in complying with the deadlines may be justified where the

⁹ See AS 29.45.180.

¹⁰ See AS 29.45.220.

¹¹ See *Bullock v. State*, 19 P. 3d 1209 (Alaska 2001).

¹² AS 29.45.180, AS 29.45.190; AS 29.45.210; AS 29.45.220.

¹³ AS 29.45.290

¹⁴ HBC 3.74.010.

¹⁵ *City of Yakutat v. Ryman*, 654 P. 2d 785 (Alaska 1982).

¹⁶ *Id.*

¹⁷ *Id.*, at 791.

¹⁸ *Id.*

APPENDIX D (Continued)

municipality made significant efforts to comply but nevertheless had substantial delays.¹⁹ A discretionary decision to abandon a completed or nearly completed process that results in significant delay in complying with the statutory deadlines is unlikely to be found to substantially comply with the statutory deadlines.

Based on the text of AS 29.45.150, its place in structure of Chapter 29.45, and the Alaska Supreme Court’s application of relevant statutes, we conclude that AS 29.45.150 does not authorize an assembly to vacate assessments. The statute specifies how an assembly may direct a systematic reevaluation of taxable property. But a systematic reevaluation does not enable a municipality to abandon existing assessments that the municipality is required by law to make.

B. An assembly should not order a systematic reevaluation of taxable property without a definitive plan and timeline for that process. Adjustments or corrections from an untimely process may be void and present litigation risks.

Alaska Statute 29.45.150 provides, in part, that a systematic reevaluation of all taxable property in the municipality be completed in the shortest period of time practicable, as fixed in the resolution or act.

There are two plausible interpretations of AS 29.45.150.²⁰ One interpretation is that the statute speaks to examining all taxable property on a cyclical basis rather than each tax year. The other interpretation is that the statute speaks to unusual circumstances where a municipality systematically revisits assessed values after initially determining the year’s property values.

Under the first interpretation, “the shortest period of time practicable” would refer to the number of years in the cycle and the assembly’s only task is to determine the least number of years that is practicable. Under the second interpretation, the assembly has a significantly more complex burden in determining “the shortest period of time practicable” for the systematic reevaluation.

The second interpretation of AS 29.45.150 is predicated upon “reevaluation” requiring an initial valuation as well as the principle that full and true value requires looking at the property’s value as of January 1 of the tax year independent of valuation in previous years.²¹ Thus, a “systematic reevaluation” can occur only *after* there has been a systematic valuation. As a practical matter, the earliest an assembly would order a systematic reevaluation would likely be in late March or April, shortly before the May 1 deadline for mailing assessment notices. Under this interpretation of, AS 29.45.150, the systematic reevaluation is required to occur in “the shortest period of time practicable” because of the several statutory deadlines implicated by reevaluating values established for that tax year.

As explained above, the deadlines are considered “directory.” A municipality’s failure to strictly comply may be justified where the municipality sought to satisfy the purposes of the

¹⁹ *Id.*

²⁰ See Memo re: 2023 Property Tax Assessment & AS 29.45.150 (October 5, 2023).

²¹ *Varilek v. Burke*, 254 P.3d 1068, 1073 (Alaska 2011) (AS 29.45.110(a) means that “[p]roperty assessments must take into account the current market value, rather than previous assessed values[.]”).

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worry the whole assessment will be thrown out

statute, but circumstances were such that strict compliance was not feasible. Under the second interpretation of AS 29.45.150, an assembly should carefully consider the timing of a systematic reevaluation before directing it. The need for and importance of a systematic reevaluation must be weighed against any delay in compliance with the statutory deadlines that will result from the a systematic reevaluation.

As explained above, our view is that an assembly may not resolve or ordain to abandon a year's assessments. A systematic reevaluation does not permit this. As long as the otherwise valid assessed values stand until adjusted or corrected in accordance with the applicable statutes, the risk that a systematic reevaluation invalidates the year's taxation is minimal. If the systematic reevaluation causes the municipality to not substantially comply with the statutory deadlines, the much more likely result is that the any adjustments resulting from the systematic reevaluation would be invalid.

Haines mailed 2023 assessment notices, has and is conducting board of equalization appeals, set mill rates, and mailed tax statements. Property tax is due on November 1.

Assuming a systematic reevaluation determines that the value of property or a class of property should be adjusted from the current assessed value, it is unclear what would follow. Assuming the borough could adjust assessed values (we note that AS 29.45.150 stands alone in using the term "reevaluation" in contradistinction to "reassessment")²² based on a systematic reevaluation, it would presumably need to issue corrected notices of assessment and provide the opportunity for appeal.²³ The borough would not be able to set a new mill rate were a significant change in full and true value to result. With taxes due November 1, the borough would need to consider a process, as well as the fiscal implications, for tax refunds that could become necessary. Haines Borough Code Chapters 3.72 and 3.74 reflect a carefully constructed system for assessing and collecting taxes. The implications of an ad hoc restructuring of this system are far reaching. These implications should be considered before taking action to potentially revisit 2023 assessments.

Finally, there is a substantial risk of litigation should the assembly set out to revisit 2023 assessments, pursuant to AS 29.45.150 or otherwise. Any person owning taxable property in Haines could seek to enjoin this action. Given the unprecedented nature of a systematic revisiting of assessments on the eve of property tax becoming due, the uncertain legal authority for the borough to do so, and the significant consequences that could result, a temporary injunction is not implausible.

C. Errors in individual assessments are addressed by appeals. Generalized concerns are best addressed by the state assessor auditing the process and the borough correcting major errors, if any, in the next tax year.

Alaska's property tax statutes — and Haines's closely related ordinances — reflect decades of developments in property taxation procedure to provide a process that is efficient and fair to individual property owners and the public as a whole. Every person owning property or

²² See AS 29.45.230.

²³ See AS 29.45.180(b); AS 29.45.230(c).

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receiving a notice of assessment has a right to appeal the assessment.²⁴ If the person is not satisfied with the board of equalization's decision, the person has the right to appeal to the superior court.²⁵ The rights to notice and appeal are essential for due process and fair treatment of taxpayers.

On the other hand, Alaska's property tax laws also reflect the tremendous importance of finality. The legislature made that clear with AS 29.45.290:

Certified assessment and tax rolls are valid and binding on all persons, *notwithstanding a defect, error, omission, or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.*²⁶

Alaska Statute Chapter 29.45 and Haines Borough Code Chapter 3.72 provide a thorough and public process for persons to seek redress for alleged errors in the assessment process. These rights are paired with a "speak now or forever hold your peace" approach to errors.

This legislative policy of finality in assessments extends to the authority of the state assessor. Even if the state assessor determines "that major errors have been found in [a municipality's] assessment, valuation, or taxation procedures," the state assessor cannot undo or revisit that year's assessment roll.²⁷ Rather, if the state assessor finds a major error, "the municipality shall correct its procedures before the beginning of the next fiscal year[.]"²⁸

Haines property owners are aggrieved that the assessed value of their property increased. Assessed values increased because market values increased. The average sale price of single-family homes in Alaska increased over 18% in the past two years, by 8.7% in 2022 alone.²⁹ Haines Borough's property tax has not increased nearly as much, in part because the assembly set a lower mill rate because of the increase in full and true value. The FY 2024 budget is based on an increase of \$134,000, or 5%, in property tax revenue over the FY 2023 budget. Attempting a re-do of the assessment and appeal procedure would likely cost the borough as much or more than the \$134,000 by which property tax revenue is anticipated to increase as a result of higher property values.

Legislative policy of the state and of the borough is for errors in individual assessments to be addressed through the appeals process. Even the board of equalization is prohibited from adjusting an error in the valuation of a property absent an appeal of the assessment for that

²⁴ AS 29.45.190(a); HBC 3.72.090.A.

²⁵ AS 29.45.210(d); HBC 3.72.0120.E.

²⁶ *See also* HBC 3.74.010 ("An assessment roll as completed and certified by the assessor and as corrected and amended by the assessor in conformity with this title and the decisions of the board of equalization is, except as amended as a result of an appeal to the court as provided by this title, valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment roll or proceedings pertaining to the assessment roll.").

²⁷ AS 29.45.105(a).

²⁸ AS 29.45.105(a).

²⁹ Alaska Department of Labor & Workforce Development. Alaska Economic Trends, May 2023.

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particular property.³⁰ Major or systemic errors are addressed by identifying the error and ensuring that it is not repeated the following year.

We are informed that the state assessor intends to review Haines Borough's 2023 property tax procedure owing to the number of inquiries made to his office regarding the 2023 assessments. The state assessor will report any major errors in the borough's valuation method or procedure. The assessor's reports are public records. If the assessor finds that there were no major errors, the public can be confident in the integrity of the 2023 assessments. Should the assessor find any major error, the borough is legally required to fix the problem for the next fiscal year. This is the procedure for addressing a general public concern that the borough's 2023 property tax assessments are improper, while instances of property-specific errors are addressed through the appeals process.

CONCLUSION

✓ Alaska Statute 29.45.150 allows the assembly to direct the assessor to undertake a systematic reevaluation of all taxable property, but the assembly cannot abandon the existing 2023 assessments. Concerns regarding 2023 property assessments are addressed through the appeal process. Concerns regarding the overall process are best addressed by the state assessor investigating the borough's processes and procedures and the borough fixing any errors identified by the state assessor.

Please let us know if you have any further questions regarding this matter.

³⁰ AS 29.45.200(b); HBC 3.72.110.C.

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