

Mayor

James Kallander

Council Members

Keith van den Broek

James Kacsh

David Allison

Bret Bradford

EJ Cheshier

David Reggiani

Robert Beedle

City Manager

Mark Lynch

City Clerk

Susan Bourgeois

Deputy Clerk

Erika Empey

Robyn Kincaid

Stu. Co. Rep.

Shyla Krukoff

**COUNCIL WORK SESSION
MARCH 16, 2011 @ 6:30 PM
LIBRARY MEETING ROOM**

AGENDA

A. CALL TO ORDER

B. ROLL CALL

Mayor James Kallander, Council members Keith van den Broek, James Kacsh, David Allison, Bret Bradford, EJ Cheshier, David Reggiani, and Robert Beedle

C. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

1. Audience Comments regarding agenda items

D. WORKSESSION TOPIC

2. BOE Training presentation by State Assessor, Steve Van Sant..... (page 1)

E. AUDIENCE PARTICIPATION

F. COUNCIL COMMENTS

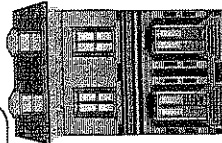
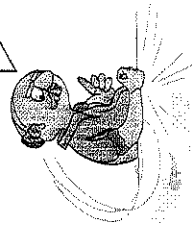
G. ADJOURNMENT

**If you have a disability that makes it difficult to attend city-sponsored functions,
You may contact 424-6200 for assistance.**

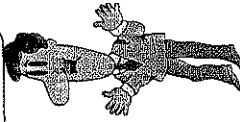
All City Council agendas and packets available online at www.cityofcordova.net

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

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



But, you just paid more than \$125,000 for your home



Prepared by:
Office of the State Assessor
2010

BOE - Points of Discussion

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

Appraisal - definition

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

Assessment - definition

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

Full Value Determination (FVD)

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

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Appraisal vs. Assessment

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

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Relationship of Values

- **Fee Appraisal** - An estimate of Market Value; typically on only one property, typically, but not always, used for purchasing or financing property
- **Assessment** - An estimate of Market Value; typically hundreds or, even thousands of properties using statistical analysis in setting values and equity. The value used for setting individual property taxes
- **Full Value Determination** - An estimate of Market Value of ALL (statutorily taxable) property within municipality- using the local assessment roll as a starting point. It is NOT used for setting individual property taxes

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Property Taxes

- Some believe that property taxes are a penalty for owning property, **they are not**
- Property taxes are payment for services provided to the property and the property owner, such as schools, fire, police, snow removal, street maintenance, and infrastructure such as roads and ports
- Property tax is simply a method of sharing the costs for providing these services
- The assessed value is the first step of the ad valorem tax (property tax according to value)
- The BOE hears arguments regarding values, not taxes

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General Definitions

- **Real Property-** By statute, means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.
- **Personal Property-** Includes tangible property other than real property, such as inventory, machinery, equipment, fixtures, vehicles, boats and aircraft.

General Definitions (cont.)

- **Value in Exchange** – Typically reflects the “market value” of property in a competitive market (selling prices)
- **Value in Use** – represents the value of property to a specific user for a specific use. For example a fire hall has a high “use” value for the community, but the market demand for a fire hall may be minimal resulting in little “market value.” Alaska Supreme Court ruling allows the Assessor to consider “Value-in-Use.”

General Definitions (cont.)

- **Possessory Interest** - constitutes a private right to the possession and/or use of otherwise exempt property (this will be government property) for a specified time period.

Approaches to Value

- **The Approaches-** The Assessor uses the same three approaches to value as independent fee appraisers. The difference is in the scope of work and quality control. The assessor appraises hundreds or thousands of properties and uses statistical analysis for quality control
- **Cost Approach** - Requires estimates of land value, current cost of constructing the improvements-new, and accrued depreciation
- **Sales Comparison Approach**- Models the behavior of the market by comparing the property being appraised with similar properties that have recently sold
- **Income Approach**- Is an estimate of the present value of future benefits; chiefly, income and future sale of the property

Roles & Responsibilities

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

Role of the Assessor

- Appointed by Mayor, Manager or Assembly
- Administration of Property Assessments
- Determination of exemption requests
- Discovery of all taxable property, (both real and personal)
- Personal property-self reporting; monitoring by assessor, force filings, if necessary
- Listing of all property
- Valuation of all taxable (real & personal) property
- Notification to all property owners of values
- Appearance before the BOE to defend assessments

Role of the Assessor (cont.)

- Goal is to achieve uniform assessments, consequently, will use "mass appraisal" techniques, not fee appraisal techniques
- In order to produce equality in the tax burden, there must be uniformity in the manner of assessments
- Between standards of **actual value and uniformity of assessments**, courts generally prefer the latter (Uniformity of Assessments)

Role of the Appellant

- The appellant is seeking a change in value, therefore,
- The appellant bears the burden of proving the assessment is in error, either too high or too low
- The appellant should present salient facts, not rumor, not anecdotes, no vague innuendos, but facts, about the property that support the allegation of an assessment that has been made in error
- The appellant needs to convince you, using those facts, that a mistake has been made in the valuation of the property

Role of the Assembly/Council

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

Role of The Board

- By statute, is comprised of assembly members; or
- Assembly may delegate this authority to one or more lay boards
- Appointed Boards may not be less than 3 members
- May be made up of assembly members, members of the public or a combination of the two
- Listens to presentations by the assessor and the appellant, asks questions, DOES NOT present its own evidence
- Makes a determination based upon the facts presented at the hearing

Role of The State Assessor

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

The Assessment

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

The Appeal Process

- The **Assessor** is the government official responsible for establishing the value of all property within a municipality's boundaries for ad valorem purposes, **not** the Board of Equalization (BOE)

The Appeal Process – Cont.

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

The Appeal

- Property owners may appeal to the BOE for relief from inaccurate assessments
- The Appellant not the Assessor, bears the burden of proof
- If the Appellant meets this burden, then the burden falls to the Assessor
- Appeal should be in a written format with evidence why owner feels assessment is unjust
- Not sufficient for appellant merely to establish there is a disagreement with the assessor's value

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The Appeal (Cont.)

- The BOE **listens** to appeals, and **if necessary**, adjusts the assessment of individual properties, higher, or lower.
- Appeal must establish that valuation is **unequal, excessive, improper or undervalued** as required by AS 29.45.210(b)
- The following is intended for use as guidelines:

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Unequal, Excessive, Improper

EXCESSIVE – To show that an assessment is excessive, an appellant must show that the assessment is more than just overvalued. It must be shown that the assessment is grossly disproportionate when compared to other assessments (OR, it can be shown that there is an intentional or fraudulent purpose to place an excessive valuation on the property.)

UNEQUAL – To show that an assessment is unequal, the appellant must show that there are other properties in the same class as the property being appealed and that there is no basis that would justify different valuations of the property.

IMPROPER – To show that an assessment is improper, it must be shown that the assessor used an improper method of valuation, which amounts to fraud or a clear adoption of a wrong principle of valuation.

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1. EXCESSIVE – Twentieth Century Inv. V. City of Jackson 359 P. 2d 783

The valuation and assessment of property for taxes does not contravene the due process clause of the Fourteenth Amendment unless it is plainly demonstrated that there is involved, not the exercise of the taxing power, but the exertion of a different and forbidden power, such as the confiscation of property. **ENR** Such a demonstration is not made simply by showing overvaluation; there must be something which, in legal effect, is equivalent to an intention or fraudulent purpose to place an excessive valuation on property, and thus violate fundamental principles that safeguard the taxpayer's property rights. **ENR**

EN10. A. Memphis Co. v. Hamilton, 1934, 292 U.S. 40, 44-45, 54 S.Ct. 599, 78 L.Ed. 1109, 1114.
EN11. Great Northern Ry. Co. v. Weathers, 1935, 287 U.S. 135, 139, 55 S.Ct. 426, 80 L.Ed. 537, 539. And see Nashville, Chattanooga, & St. Louis Ry. v. Breuninger, 1940, 310 U.S. 362, 370-371, 60 S.Ct. 568, 84 L.Ed. 1254, 1258, 1259.

Supplement to above:

"Excessive Assessment. A tax assessment that is grossly disproportionate as compared with other tax assessments." **Blacks Law Dictionary, 7th Ed.**

2. UNEQUAL – Twentieth Century Inv. V. City of Jackson 359 P. 2d 783

It has been determined that the uniformity clause of the Organic Act required the same measure of uniformity and equality that is required by the equal protection clause of the Fourteenth Amendment as applied to state taxing laws. **ENR** The equal protection clause does not prohibit inequality in taxation which is not shown to be the result of an intentional or systematic undervaluation of some but not all of the taxed property in a single class. **ENR**

EN4. Shaker Steamship Co. v. Mullins, 9 Cir., 1950, 180 F.2d 805, 817, 12 Alaska 584, 619; **Hess v. Mullins**, 9 Cir., 1954, 213 F.2d 635, 639, 15 Alaska 40, 49, certiorari denied 1949, 368 U.S. 925, 2 S.Ct. 1075, 3 L.Ed. 755, 60 S.Ct. 981, 67, 619.
EN5. Commission Federal Shipping & Loan Ass'n v. Adger, 205, 372 U.S. 182, 189-191, 63 S.Ct. 624, 89 L.Ed. 857, 864.

3. IMPROPER – Twentieth Century Inv. V. City of Jackson 359 P. 2d 783

The City was not bound by any particular formula, rule or method, either by statute **ENR** or otherwise. **ENR** Its choice of one recognized method of valuation over another was simply the exercise of a discretion committed to it by law. Whether or not it exercised a wise judgment is not our concern. This court has nothing to do with complaints of that nature. It will not substitute its judgment for the judgment of those upon whom the law confers the authority and duty to assess and levy taxes. **ENR** This court is concerned with nothing less than fraud or the clear adoption of a fundamentally wrong principle of valuation. **ENR**
EN12. Section 16-1-117 A.C.L.A.1949 authorized the City Council to fix the mode and manner of assessment of property taxes.
EN14. Great Northern Ry. Co. v. Weathers, supra note 11, 287 U.S. 139, 140, 55 S.Ct. 426, 80 L.Ed. 537, 539, 84 L.Ed. 1254, 1258, 1259.

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Finding of Facts/Conclusions of Law

▪ Definition: Finding of Facts-

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

Definition: Conclusion of Law-

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

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Finding of Facts/Conclusions of Law (cont.)

- Treat every case as though it will be appealed to the courts
- The courts will review the record of the hearing -- an appellant does not receive a new hearing
- Courts need to know how you made your decision
- Place yourself in courts position and determine if you can understand why BOE made the decision it made
- Make sure your findings of fact relate to the issues brought forth
- If the appellant has made an assertion as to why the value should be lower, make sure your conclusions address the assertion as to why it was or was not considered appropriate- If the court can't understand your findings, it will probably send the case back to the Board

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Late Filed Appeals

- The BOE may allow a late filing if the owner was unable to comply with the 30 day appeal period
- The BOE should have, in place, written criteria of why someone may file late appeal
- Be consistent with approval/denials with applications of late file requests
- Assessors office mails notification to last known address or owner
- Sale of property may occur after mailing of notice, however, this does not negate the original 30 day filing period, because notice was made

Alaska Statutes

- AS 29.45.110 through AS 29.45.210 is the legal authority for the assessment, appeal, Board of Equalization and the B.O.E. hearing process.
- Assessments are guided both by statute, and by Alaska Court cases. There have been several court cases through the years which assist the assessor in applications of standards, such as Possessory Interests, Farm Use, and certain property tax exemptions.

Some Reasons Given for Value Reduction

- Taxes are too high
- Value Increase too much
- No improvements made to property
- Neighbors house valued less
- Not enough services from Municipality for taxes paid
- Value is just plain excessive, improper and unequal
- Didn't receive assessment notice

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Some B.O.E. "Don'ts"

- DO NOT offer a small deduction to "help out" the appellant
- DO NOT bring in your own comparables; you should consider only what is presented at the hearing
- DO NOT expect your assessor to provide a long narrative appraisal report
- DO NOT try to review a case where the question is a matter of law, not value
- DO NOT attempt to re-appraise the property unless the burden of proof has been met by the appellant. Then make a determination of value based upon the information provided or you may also remand the appeal back to the assessor
- DISASTERS – All assessments are made as of January 1- Post-Assessment date ^{Office of the State Assessor} property tragedies cannot be changed by the BOE.

B.O.E. "Do's"

- Do show both the appellant and the assessment staff the courtesy of your attention
- Do make your decisions based upon ONLY the facts presented at the hearing
- Do leave your "appraisal calculator" at the front door
- Do remember that the assessors staff are professional appraisers that have been to schools on appraisal standards and techniques, the appellant, typically, has not

Summary

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

THANK YOU

FOR YOUR TIME

AND YOUR WILLINGNESS

TO SERVE ON THE B.O.E.