

MEMORANDUM

TO: Anita Foran, Finance Director
FROM: Robert Palmer, MCS, Attorneys for City *Robert H. Palmer*
RE: Interpretation of AS 29.45.090(a) and the 3% property tax
DATE: April 16, 2025

You asked for legal guidance on the interpretation of AS 29.45.090(a). People often mis-interpret the 3% tax limit in AS 29.45.090(a). Assessed property values may increase more than 3% per year without violating AS 29.45.090(a); but AS 29.45.090(a) limits a mill levy to 30 mills, which is 3% of the assessed value of property.

AS 29.45.090(a) provides:

"A municipality may not, during a year, levy an ad valorem tax for any purpose in excess of three percent of the assessed value of property in the municipality. All property on which an ad valorem tax is levied shall be taxed at the same rate during the year."

The 3% limit in AS 29.45.090(a) limits the mill rate to no more than 30 mills. The plain language of the statute describes that a city may not impose a property tax that exceeds 3% of the assessed value of property. For example, if the assessed value of a property were \$458,300, the maximum property tax a city could levy is \$13,740, which equates to 30 mills. I understand the City's mill levy for 2024 was 13 mills, Resolution 2024-35, which is well below the 30 mill limit of AS 29.45.090(a).

If AS 29.45.090(a) imposed a 3% limit on changes to assessed value, then it would conflict with AS 29.45.110(a), which requires the assessments based on the full and true value. The Alaska Supreme Court has emphasized

"AS 29.45.110(a) defines property value for assessment purposes as the price the property would bring in an open market and under the then prevailing market conditions. Property assessments must take into account the current market value, rather than previous assessed values, as [the property owner] suggests."

Varilek v. Burke, 254 P.3d 1068, 1073 (Alaska 2011) (internal quotations omitted).

Thus, assessed values may increase by more than 3% as compared with the prior year without violating AS 29.45.090(a).