

## BOARD OF EQUALIZATION ORIENTATION

**NOTE:** Members are encourage to review, from your training material, the April 19, 2013 Memorandum prepared by former City Attorney John Hartle, for further helpful guidance.

### **A. Quasi-Judicial Role & Responsibilities** - CBJ 15.05.185

1. Be a fair & impartial tribunal - no bias/preconceived ideas; no ex parte contact
  - a. Member may not deliberate or vote on any matter in which member has a personal or financial interest (defined in CBJ 01.45.360); conflict of interest check needed prior to hearing to allow substitution; may call legal advisor
  - b. **Avoid expressing opinions or including commentary in questions to the parties.**
  - c. **Opinions on the evidence/position of parties should await BOE deliberations.**
2. Afford both parties due process - fair notice and opportunity to be heard

Must allow both sides time to review new evidence presented at hearing
3. Decide appeals on *evidence presented* in packet and at hearing.
4. Make record of proceeding that clearly and accurately reflects:
  - a. Taxpayer/Appellant's claim and factual evidence offered to support it
  - b. Assessor's process/position and factual evidence offered to support both
  - c. That each side had adequate opportunity to present relevant evidence/review & rebut other party's evidence
  - d. BOE's thorough deliberations & consideration of the evidence
  - e. BOE's findings of fact & conclusions of law re burden of proof & the evidence relied on as basis of decision
  - f. Rationale & evidentiary basis of BOE's decision, to enable meaningful review by the Superior Court in the event of an appeal

### **B. Legal Standard for Granting Appeal on Merits for *Error in Valuation***

1. Starting point: under AK law, Assessor's **assessments are presumed to be correct.**
2. **Burden of proof on Appellant to prove error - unequal, excessive, improper, or under valuation based on facts** that are stated in a valid written appeal or proven at the appeal hearing
3. If and only if Appellant meets burden does burden shift to Assessor to rebut Appellant's evidence of error

4. Law does not bind Assessor to follow a particular formulas, rules or methods of valuation, but grants broad discretion in selecting valuation methods-as long as reasonable basis
5. Technical evidentiary rules don't apply  
Relevant evidence admissible if sort relied on by responsible persons  
May exclude irrelevant, repetitious evidence
6. **Only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts**

**C. Alternative Actions for Appeals Heard on the Merits**

- a. **Deny appeal** because Appellant failed to prove error in valuation with factual evidence.
- b. **Grant appeal & adjust assessment *as requested by Appellant***. (only if Appellant's valuation evidence supports proposed assessment value)
- c. **Grant appeal & adjust (lower or raise) assessment differently**. (if and only if supported by sufficient evidence of value in record.)
- d. **Grant appeal & remand to Assessor for reconsideration of value** (remand is mandatory if error found, but insufficient evidence of value in record.)

**D. LATE-FILED APPEALS – Legal Standard for Accepting**

1. Potential *merit* of appeal is irrelevant.
2. Jurisdictional authority to hear only *timely-filed appeals*
3. Appeal must be filed w/in 30 days from date assessment notice is mailed
4. Only "accepted" late-filed appeals may proceed to a hearing on the merits.
5. If 30 day deadline missed, RIGHT to appeal CEASES and BOE **cannot accept or hear** appeal, **unless BOE finds that taxpayer was unable to comply due to situation beyond taxpayer's control** (See Hartle memo)
6. Burden to prove inability to comply is on Taxpayer.
7. BOE Action Alternatives: **Deny** Late-file or **Accept, so hearing can be scheduled.**

## **BOE HEARING GUIDELINE**

- I. Call to Order
  - II. Roll Call - Chairs asks clerk to call the roll
  - III. Appeals will be heard first, followed by *Timeliness* Hearings on Late-filed Appeals
  
  - IV. Introduce first Appeal case for hearing:  
  
We're on the record with respect to 'Petition for Review of Assessed Value' filed by \_\_\_\_\_ with respect to Parcel Id. No. \_\_\_\_\_
  
  - IV. Review Hearing Rules/Procedure (For each appeal, unless all in attendance at beginning)
    - A. Time allocated to each side: approx. 15 min, including BOE questions
    - B. State name for record and speak clearly in to mic, use surnames/maintain decorum
    - C. Appellant taxpayer goes 1<sup>st</sup>  
**Has burden to prove an error—an unequal, excessive, improper or under valuation** based on presented factual evidence
    - D. Assessor - presents Assessor's evidence in response
    - E. Appellant rebuttal, if time reserved
    - F. Hearing closes after presentations
    - G. BOE action/deliberation
    - H. Any questions? Parties ready to proceed?
  
  - V. Hearing - party presentations & all BOE questioning
  - VI. Close Hearing, move to BOE action
    - A. BOE reviews/discusses evidence presented, or goes directly to B.
    - B. Member makes motion, Chair restates motion
    - C. Members speak to the motion/make findings
    - D. BOE votes/takes action on motion
    - E. Chair announces whether motion carries/fails
  
  - VII. Call next appeal, repeat IV – VI
  
  - VIII. Late-Filed Appeals, if any (SEE LATE-FILED APPEALS – PROCESS)
  - IX. Adjourn
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### **BOE Action Options:**

- 1. **Deny appeal** because Appellant failed to prove error in valuation with factual evidence.
- 2. **Grant appeal & adjust assessment as requested by Appellant.** (if Appellant's evidence supports proposed assessment value)
- 3. **Grant appeal & adjust (lower or raise) assessment differently.** (if and only if supported by sufficient evidence of value in record.)
- 4. **Grant appeal & remand to Assessor for reconsideration of value** (remand is mandatory if error found, but insufficient evidence of value in record.)

## SAMPLE MOTIONS

### 1. To DENY appeal

**I MOVE that the Board *GRANT* the appeal and I ASK for a NO VOTE**

Because . . .

Appellant didn't prove/provide evidence of error in assessment  
and/or

For the evidence/reasons provided by the Assessor . . .

### 2. To GRANT appeal & ADJUST assessment AS REQUESTED

**I MOVE that the Board *GRANT* the appeal and ADJUST the assessment *AS REQUESTED BY APPELLANT* to \$ \_\_\_\_\_ , and I ask for a YES VOTE**

Because . . .

Appellant proved there was error . . .

[specify . . . **unequal, excessive, improper, or under valuation**]  
**based on facts**

AND

We find requested assessment is supported by sufficient evidence in the record

### 3. To GRANT appeal & ADJUST assessment OTHERWISE

**I MOVE that the Board *GRANT* the appeal and ADJUST the assessment to \$ \_\_\_\_\_ , and I ASK FOR A YES VOTE**

Because . . .

Appellant proved there was error . . .

[specify . . . **unequal, excessive, improper, or under valuation**]  
**based on facts**

AND

We find sufficient evidence of value in record to support this assessment

### 4. To GRANT appeal & REMAND for RECONSIDERATION of ASSESSMENT

**I MOVE that the Board *GRANT* the appeal and REMAND to the ASSESSOR for RECONSIDERATION of the ASSESSMENT, and I ASK FOR A YES VOTE**

Because . . .

Appellant proved there was error . . .

[specify . . . **unequal, excessive, improper, or under valuation**]  
**based on facts**

AND

We find insufficient evidence of value in the record