



Fairbanks North Star Borough

Borough Clerk

809 Pioneer Road * PO Box 71267 * Fairbanks, Alaska 99707-1267 *(907) 459-1401 FAX 459-1224

SPECIAL BOARD OF EQUALIZATION MEETING

May 6, 2015

Mona Lisa Drexler Assembly Chambers

809 Pioneer Road

6:30 P.M.

1. Call to Order
2. Roll Call
3. CITIZENS COMMENTS – Comments limited to item on the agenda only.
(Each person's comments limited to three (3) minutes.)
4. Discussion and recommendation on Assembly Ordinance No. 2015-28:

ORDINANCE NO. 2015-28. An Ordinance Expanding, Clarifying And Amending Title 3 Of The Fairbanks North Star Borough Code Regarding Board Of Equalization Appeals And "Unable To Comply" Determinations. (Sponsor: Assemblymember Roberts)

5. Adjourn

By: Lance Roberts
Introduced: April 23, 2015

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5 FAIRBANKS NORTH STAR BOROUGH

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7 ORDINANCE NO. 2015 - 28

8
9 AN ORDINANCE EXPANDING, CLARIFYING AND AMENDING TITLE 3 OF THE
10 FAIRBANKS NORTH STAR BOROUGH CODE REGARDING BOARD OF
11 EQUALIZATION APPEALS AND "UNABLE TO COMPLY" DETERMINATIONS
12

13 WHEREAS, State law (AS 29.5.200) provides that the board of
14 equalization sits "for the purpose of hearing an appeal from a determination of the
15 assessor"; but, a determination of the assessor as to whether property is taxable under
16 law may be appealed directly to superior court; and
17

18 WHEREAS, Current borough code permits certain taxpayers who
19 disagree with the determination of the assessor regarding the tax exempt status of
20 property to appeal to the board of equalization, to superior court or to both; and
21

22 WHEREAS, FNSBC 3.28.030's reference to "both" appeal paths could be
23 misinterpreted to allow simultaneous appeals; and
24

25 WHEREAS, Although current borough code allows certain appeals
26 regarding tax exempt status it does not explicitly provide a deadline or process for filing
27 the appeal to the board of equalization; and
28

29 WHEREAS, The board of equalization may extend the taxpayer's right to
30 appeal the assessment if the taxpayer was "unable to comply" but this process does not
31 explicitly apply to the failure to meet exemption application deadlines or an appeal from
32 an assessor's determination regarding a property tax exemption; and

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Text to be *added* is underlined

Text to be *deleted* is [BRACKETED AND CAPITALIZED]

33
34 WHEREAS, Borough code (FNSBC 3.08.020 F.) as required by state law
35 (AS 29.45.030(f)) separately provides for application deadline waivers of senior citizen
36 and disabled veteran exemptions by the assessor with an appeal to the assembly; and
37

38 WHEREAS, An appeal to the board of equalization is less costly and less
39 time consuming than an appeal to the superior court and allows an additional
40 opportunity to internally and administratively correct any errors prior to court
41 involvement.
42

43 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
44 North Star Borough:
45

46 Section 1. This ordinance is of a general and permanent nature and shall
47 be codified.
48

49 Section 2. Section 3.24.001, **Appeal**, shall be amended as follows:

50 A. **Right to appeal.** A person whose name appears on the assessment roll or the
51 agent or assigns of that person may appeal to the board of equalization for relief from
52 an alleged error in valuation not adjusted by the assessor to the appellant's satisfaction.
53 An applicant for a farm use assessment who believes that the valuation or classification
54 assigned to the land that is the subject of the application is erroneous, or an applicant
55 aggrieved by any determination of the assessor regarding a [SENIOR CITIZEN OR
56 DISABLED VETERAN] property tax exemption, may appeal to the board of
57 equalization. A person who missed the deadline to file for an exemption, other than
58 senior citizen or disabled veteran exemptions, or to appeal a valuation or exemption
59 determination may also appeal to the board for a determination concerning whether
60 they were unable to comply with the deadline.

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61 **B. Board Appeal Deadlines.** The appellant contesting a property valuation not
62 adjusted to the appellant's satisfaction shall, [WITHIN] no later than 30 days after the
63 date of mailing of notice of assessment, submit to the assessor a written appeal
64 specifying grounds in the form that the board of equalization may require. Appellants
65 contesting any determination of the assessor regarding a property tax exemption must,
66 no later than 10 days after the date of mailing of the assessor's decision, submit to the
67 assessor a written appeal specifying grounds in the form that the board of equalization
68 may require. Otherwise, the right of appeal to the board ceases unless the board of
69 equalization finds that the taxpayer was unable to comply.

70 **C. Unable to comply determinations.** For purposes of this [SUB]section, "unable
71 to comply" means that the failure to timely apply or appeal was based upon a natural
72 catastrophe, extraordinary circumstances, a serious medical or other similar serious
73 condition or other event beyond the taxpayer's control that places the taxpayer in a
74 significantly different situation from a typical taxpayer who misses the deadline. A
75 failure to pick up or read mail, or to make arrangements for an appropriate and
76 responsible person to pick up or read mail, or a failure to timely provide a current
77 address to the office of the borough assessor, will not be deemed to result in an inability
78 to comply and the application or appeal will not be accepted for that tax year.

79 1. All assertions of an inability to comply must be filed by an affidavit setting
80 forth the reasons why the applicant or appellant was unable to file by the deadline. An
81 appellant asserting an inability to comply with the 30-day filing period for alleged errors
82 in valuation must [SHALL] file the affidavit and the written appeal with the assessor [A
83 WRITTEN STATEMENT WITHIN] no later than 30 days from the date of the close of the
84 applicable appeal period of that tax year [SETTING FORTH THE REASONS WHY THE
85 APPELLANT WAS UNABLE TO FILE WITHIN THE 30-DAY PERIOD]. An applicant
86 asserting an inability to comply with the exemption application deadline (other than the
87 filing of a senior or disabled veterans exemption) must file with the assessor the affidavit
88 and the exemption application no later than 15 days from the exemption application
89 deadline. An appellant asserting an inability to comply with the 10 day exemption

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90 appeal deadline must file with the assessor the affidavit and the written appeal no later
91 than 10 days from the appeal deadline. The assessor shall supply to the board the
92 [WRITTEN STATEMENT] affidavit with any relevant information and/or documents.
93 The board of equalization shall consider the [MATTER] extension request only on the
94 written submissions and supporting documents and shall not consider evidence
95 regarding property valuation or exemptions.

96 2. If the extension request is granted for a valuation or exemption appeal, the
97 appellant and the property owner shall be notified and the matter will be set for hearing.
98 If the request is denied, the clerk's office shall notify the appellant and the property
99 owner of the board's decision. If the extension request is granted for an exemption
100 application, the assessor shall accept the application as if timely filed.

101 3. The authority provided in this section to grant extensions may not be
102 exercised so as to permit acceptance of an exemption application or appeal other than
103 for the current year.

104 [C] **D. Notice of hearing.** The assessor shall notify an appellant and the property
105 owner by mail of the time and place of hearing. The notices shall be mailed not later
106 than 10 calendar days before the date of the hearing.

107 [D] **E. Summary of assessment data.** The assessor shall prepare for use by the
108 board of equalization a summary of assessment data relating to each valuation
109 assessment that is appealed. Upon request of the appellant, the assessor shall provide
110 the appellant with the assessment data that will be presented to the board of
111 equalization relating to each valuation assessment that is appealed.

112 [E] **F. Appeals by city.** A city in the borough may appeal an assessment to the
113 borough board of equalization in the same manner as a taxpayer. Within five days after
114 receipt of the appeal, the assessor shall notify the person whose property assessment
115 is being appealed by the city.

116

117 Section 3. FNSBC 3.24.012 A., **Procedures**, is amended as follows:

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118 A. Exemption appeals shall follow the procedures provided in FNSBC 2.21.150 B.
119 (De novo hearings involving an appeal from an administrative determination). In the
120 conduct of its valuation hearings, the board shall follow the procedures outlined in this
121 chapter or as set forth in code or state statute; provided, however, that failure to adhere
122 strictly to this procedure shall not affect the validity of the board's action.

123
124 Section 4. FNSBC 3.28.030, **Claims based on the tax exempt status of**
125 **property**, is hereby amended as follows:

126 A taxpayer who claims that property is not taxable under law may appeal a
127 determination of the assessor that property is taxable directly to the superior court as
128 provided by rules of court applicable to appeals from the decisions of administrative
129 agencies, or the taxpayer may first appeal to the board of equalization as provided by
130 law[, OR THE TAXPAYER MAY DO BOTH].

131
132 Section 5. Effective Date. This ordinance shall be effective at 5:00 p.m.
133 on December 31, 2015.

134
135 PASSED AND APPROVED THIS ____ DAY OF _____, 2015.

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137
138
139 _____
Karl Kassel
140 Presiding Officer

141
142 ATTEST:

143
144
145 APPROVED:


146 _____
Nanci Ashford-Bingham, MMC
147 Borough Municipal Clerk

146 _____
A. René Broker
147 Borough Attorney

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