

ALASKA LEGISLATURE COMMITTEE FILES 1987-88 8672

4455 HCRA HB 28 - HB 37

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STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House C+RA	1-30-87	3:00 p.m.
" "	2-4-87	3:00 p.m.

HOUSE COMMITTEE REPORT

10 HB 28

(5)

Date referred: 1/19/87

FURTHER REFERRALS: Judiciary

DATE: 02/04/87

The Community and Regional Affairs Committee has considered HB 28

"An Act relating to municipal penalties for prostitution."

RECOMMENDS:

- replace with CSHB28 (C&RA) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Heinrich Spruijs

Bette Ent

James Zwolski

Alheid Herrmann

SIGNING OTHER RECOMMENDATIONS:

Heinrich Spruijs

 Chairman's signature

13 HB28

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : HB28
Publish Date : _____

Revision Date: _____
Title: "An act relating to municipal penalties for prostitution."

Agency Affected: Department of Corrections
BRU: _____

Sponsor: Representative Donlev
Requestor: House Committee & Reg. Affairs

Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	186.7	186.7	186.7	186.7	186.7	186.7
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	186.7	186.7	186.7	186.7	186.7	186.7

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	186.7	186.7	186.7	186.7	186.7	186.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

S Knighton

Prepared by: Susan Knighton, Research Analyst IV
Division: Administrative Services

Phone: 465-3376
Date: March 2, 1987

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 3/2/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB28

This bill amends AS 29.25.070(a) by providing that municipalities may prescribe a penalty requiring the court to impose a minimum sentence of imprisonment of up to 90 days.

The Department of Corrections is currently housing approximately 12 sentenced inmates per year for the offense of prostitution. The average sentence received is 90 days and 60 actual jail days with all good time received. This results in a cost to the State of \$32,011. (12 inmates x 60 days x \$44.46/day)

During 1986, approximately 110 persons were arrested and booked for the offense of prostitution. These cases are not routinely prosecuted because of the short sentences being imposed by the courts. During 1986, only 12 of the 110 arrested were given jail sentences and the average sentence length was 90 days.

This bill proposes that more active prosecution of these cases will take place if the courts must impose a mandatory sentence of 90 days. To evaluate the effects of these stiffer sentences, we have calculated the fiscal impact of a 50 percent conviction rate, 75% conviction rate and 100% conviction rate.

50% Conviction Rate:

55 inmates sentenced to 90 days	=	3,300
Total Cost = 3300 days x \$44.46	=	146,718
Increased Cost	=	114,707

75% Conviction Rate:

82 inmates sentenced to 90 days	=	4,920
Total Cost = 4920 days x \$44.46	=	218,743
Increased Cost	=	186,732

100% Conviction Rate:

112 inmates sentenced to 90 days	=	6,720
Total Cost = 6720 days x \$44.46	=	298,771
Increased Cost	=	266,760

The 75% Conviction Rate scenerio has been used on the attached fiscal note. These persons will most likely be housed in Community Residential Centers or Restitution Centers.

Original sponsors: Donley and Gruenberg

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 28 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal penalties for prosti-
7 tution."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.25.070(a) is amended to read:

10 (a) For the violation of an ordinance, a municipality may by
11 ordinance prescribe a penalty not to exceed a fine of \$1,000 and
12 imprisonment for 90 days. A municipality may prescribe a penalty
13 requiring a court to impose a minimum sentence of imprisonment of up
14 to 90 days and a fine not to exceed \$1,000, as provided in an ordi-
15 nance, for violation of an ordinance that prohibits prostitution. In
16 this subsection, prostitution includes engaging in or agreeing to
17 engage in sexual conduct for a fee, and paying or agreeing to pay a
18 fee in exchange for sexual conduct.



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: February 4, 1987

SIGN-IN

Subject of meeting: (C) HB 28

HB 37, Further consideration of an Act relating to certain municipal property tax procedures.

HB 28, Further consideration of an Act relating to municipal penalties for prostitution

NAME (PLEASE PRINT)	ADDRESS (COMPLETE)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
✓ MIKE WORLEY	P.O. Box BH, JUNU, AK. 99811	465-4787	DCRA	YES
✓ GAILE HORETSKI	P.O. BOX KC, JUNEAU	x 3428	DEPT. OF LAW	YES - HB 28
Scott Burgess	Juneau	G-1325	AML	Yes HB 37
✓ Roger Jenkins	2201 Roosevelt	465-3875	Self.	
✓ Shirley Armstrong	6430 E 9th Ave	465-4939	Self	no
Rep. Dave Donley		3892	Sponsor HB 28	yes
Rep. Robin L. Taylor	Dist 1A	4905	Sponsor HB 37	yes

**Municipality
of
Anchorage**



Larry Baker, Assemblyman
3947 Locarno Drive
Anchorage, Alaska 99504
Telephone (907) 563-2906

⑬ H-328
P.O. BOX 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4311

FEB 3 1987

January 30, 1987

Representative Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Dave:

Thank you for your letter of January 21, 1987. I certainly was pleased to learn that you and Max Gruenberg have introduced legislation to strengthen our statutes on prostitution.

I have felt for many years that our community was in need of stronger legislation by the State of Alaska in order to assist local communities in solving their prostitution problems.

I fully support your efforts and will work with Assemblymen Faulkner and Kubitz to develop solutions on a local level.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry W. Baker".

Larry W. Baker
Chairman

cc: Bill Faulkner
Jim Kubitz

12 HB 28

FEB 2 1987

5-0185B ✓
Levy
1/31/87

Original sponsors: Donley and Gruenberg

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 28 (C&PA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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15 nance, for violation of an ordinance that prohibits prostitution. In
16 this subsection, prostitution includes engaging in or agreeing to
17 engage in sexual conduct for a fee, and paying or agreeing to pay a
18 fee in exchange for sexual conduct.



Alaska House of Representatives
Pouch V -- State Capitol
Juneau, AK 99811
(907)465-4942

Community & Regional Affairs

I thought you might find the attached information
to be of interest.

Adelheid Hermann

⑪ HB 28



CITY OF UNALASKA

P.O. BOX 89 112

UNALASKA, ALASKA 99685

(907) 581-1251

"Capital of the Aleutians"

DEPARTMENT OF PUBLIC SAFETY

February 9, 1987

Representative Adelheid Herrman
P.O. Box 63
Naknek, Alaska 99633

Dear Representative Herrman:

I recently had opportunity to review a Bill proposed by Representative Donley: House Bill #28, "An Act Relating to Municipal Penalties for Prostitution."

The response I prepared for my City Manager presented my perception of the rationale behind the bill and was somewhat negative. In a more recent phone conversation with Representative Donley, the intent of his legislative action was clarified. It is, as I now understand, intended to impact relatively serious problems experienced in the Anchorage/Fairbanks municipalities.

Inasmuch as these municipalities have their own prosecutorial staff and, as House Bill #28 proposes that the suggested ordinance change be optional for municipalities, I now view the bill more favorably. I would recommend support of House Bill #28.

Sincerely,

Peter G. Davis
Peter G. Davis, Director
Department of Public Safety

PGD:plb

(10) HB 28

JAN 21 1987

CITY OF UNALASKA

P.O. BOX 292 112
UNALASKA, ALASKA 99685
(907) 581-1251

"Capital of the Aleutians"



January 21, 1987

TO: Nancy Gross, City Manager
FROM: Peter Davis, Public Safety Director
RE: Review of House Bill No. 28

I have several objections to this bill. They are as follows:

- A. It assumes that prostitution is considered to be the more serious violation or problem present in all municipalities; more so than already encoded. This, of course is, and may not be the case.
- B. It would be contrary to the stated position of the Courts. Violations with fines exceeding \$300 and with extended jail terms, are required to be handled as misdemeanors.
- C. If such an ordinance were to be accepted and enforced, the defendant would be entitled to a jury trial and a defense attorney. The municipality would then have to prosecute the case with its own attorney and provide the defendant with a public defender, if required.

In all, at least for Unalaska, we have other areas of greater concern. Prostitution is not a major, nor an obvious problem, and we have just amended our ordinances to assure better enforcement by making them all violations. It is a nothing bill!

9 HB 28



Telegram

09018

1987 JAN 29 11 47

PDM ANCHORAGE ALASKA 15 01-29 1145A AST

PMS

REF DAVE DONLEY
10200
JUNEAU AK

I AM VERY SUPPORTIVE OF HB28. PLEASE HELP US CLEAN UP OUR
NEIGHBORHOODS. THANK YOU.

DR BILL FAULKNER, ANCHORAGE MUNICIPAL ASSEMBLYMAN
400 L ST SUITE 104
ANCHORAGE AK 99501

Continuously Interfolded in Moore Business Forms, Inc. MFB
L-0167-0 1601876

- (b) Criminal possession of explosives is a
- (1) class A felony if the crime intended is murder in any degree or kidnapping;
 - (2) class B felony if the crime intended is a class A felony;
 - (3) class C felony if the crime intended is a class B felony;
 - (4) class A misdemeanor if the crime intended is a class C felony;
 - (5) class B misdemeanor if the crime intended is a class A or class B misdemeanor. (§ 7 ch 166 SLA 1978)

Collateral references. — 31 Am. Jur. Possession of bomb, molotov cocktail, or
 2d. Explosions and Explosives, similar device as criminal offense, 42
 §§ 121-130 ALR3d 1230
 35 C.J.S. Explosives, § 12

Sec. 11.61.250. Unlawful furnishing of explosives. (a) A person commits the crime of unlawful furnishing of explosives if the person furnishes an explosive substance or device to another knowing that the other intends to use the substance or device to commit a crime.
 (b) Unlawful furnishing of explosives is a class C felony. (§ 7 ch 166 SLA 1978)

Chapter 65. Offenses Against Public Convenience.

- Secs. 11.65.010 — 11.65.020. [Renumbered as AS 30.50.020 and 30.50.010.]
 Sec. 11.65.030. Tampering with posted notices. [Repealed. § 21, ch. 166, SLA 1978.]

Chapter 66. Offenses Against Public Health and Decency.

- Article
 1. Prostitution and Related Offenses: §§ 11.66.100 — 11.66.150
 2. Gambling Offenses: §§ 11.66.200 — 11.66.250

Article 1. Prostitution and Related Offenses.

Section	Section
100. Prostitution.	130. Promoting prostitution in the third degree.
110. Promoting prostitution in the first degree.	140. Corroboration of certain testimony not required.
120. Promoting prostitution in the second degree.	150. Definitions.

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. Municipality of Anchorage v Afualo, Ct App Op No 213 (File Nos 7094, 7095), 657 P.2d 407 (1983).

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. Municipality of Anchorage v Afualo, Ct App Op No 213 (File Nos 7094, 7095), 657 P.2d 407 (1983).

There is nothing in this article which

Collateral references. — 63 Am Jur 2d Prostitution § 1 et seq; 27 C.J.S. Disorderly Houses § 1 et seq; 73 C.J.S. Prostitution § 1 et seq; Constitutionality and construction of pandering acts, 74 ALR 311

Validity and construction of statute or ordinance prohibiting solicitation for purposes of prostitution, lewdness or assignation. — modern cases, 77 ALR3d 519

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. Eleazar v United States, 16 Alaska 561, 241 F.2d 383 (9th Cir. 1956), decided under former AS 11.40.220

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. Garibay v State, Ct App Op No 221 (File No 6246), 658 P.2d 1350 (1983)

This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. Municipality of Anchorage v Afualo, Ct App Op No 213 (File Nos 7094, 7095), 657 P.2d 407 (1983).

Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. Garibay v State, Ct App Op No 221 (File No 6246), 658 P.2d 1350 (1983)

Actual payment of a fee is not required; an act of prostitution is com-

Collateral references. — Prostitution as vagrancy, 14 ALR 1501; Entrapment to procure women for

immoral purposes, 18 ALR 186, 66 ALR 478, 66 ALR 263

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(1) induces or causes a person to engage in prostitution through the use of force;

(2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 16 years of age or older.

(c) Except as provided in (d) of this section, promoting prostitution in the first degree is a class B felony.

(d) A person convicted under (a)(2) of this section is guilty of a class A felony. (§ 8 ch 166 SLA 1978; am §§ 1, 2 ch 50 SLA 1983)

Effect of amendments. — The 1983 amendment added "Except as provided in" to the beginning of subsection (c) and added subsection (d).

NOTES TO DECISIONS

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup Ct Op No 294 (File No 520), 403 P.2d 673 (1965).

For case construing former procurement statute, see *Johnson v. State*, Sup Ct Op No 832 (File No 1336), 501 P.2d 762 (1972).

Sentence for procurement upheld. — See *Price v. State*, Sup Ct Op No 1450 (File No 2794), 565 P.2d 855 (1977).

For case construing former statute concerning necessary evidence for prostitution or seduction, see *Johnson v. State*, Sup Ct Op No 832 (File No 1336), 501 P.2d 762 (1972).

Collateral references. — Transporting female for purpose of prostitution, 74 ALK 330.

Woman conniving or consenting to own transportation, 64 ALR 376.

Sec. 11.66.120. Promoting prostitution in the second degree.

(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C felony. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting soliciting or procuring for purpose of prostitution, see *Piaz v. State*, Sup. Ct. Op. No. 1904 (File No. 3529, 3530, 598 P.2d 960 (1979).

Instruction. — Trial court did not err in

refusing to give instruction requiring state to prove that prostitution enterprise involved in case was of an ongoing nature. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246, 658 P.2d 135 (1983).

Collateral references. — Separate acts of taking earnings of or support from pro-

stitute as separate or continuing offenses of pimping. 3 ALR4th 1195.

Sec. 11.66.130. Promoting prostitution in the third degree. (a) A person commits the crime of promoting prostitution in the third degree if, with intent to promote prostitution, the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property pursuant to an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes below were decided under former AS 11.40.260, 11.40.300, 11.40.330, 11.40.410, and 11.40.420.

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law. *Elezar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956).

Lessor may be guilty as keeper. — If a man leases his house to a woman to be kept as a bawdyhouse for purposes of prostitution, and it is kept for such purposes, with his knowledge, he is guilty as keeper. *Rosenkrantz v. United States*, 155 F. 35 (9th Cir. 1907).

As well as agent of lessor. — The agent of an owner, who rents a house knowing that it is to be used as a house of prostitution, and that it is so used, may be found guilty as a keeper. *Rosenkrantz v.*

United States, 155 F. 35 (9th Cir. 1907).

For case construing former statute prohibiting employment in a house of prostitution or living on the earnings of a prostitute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1336), 501 P.2d 762 (1972).

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 405 P.2d 673 (1965).

For case construing former statute prohibiting pimping, see *Johnson v. United States*, 269 F. 783 (9th Cir. 1919).

For case construing former statute prohibiting a male's living with or on the earnings of a prostitute, see *Dunn v. State*, Sup. Ct. Op. No. 409 (File No. 735), 426 P.2d 993 (1967).

Collateral references. — 27 C.J.S. Disorderly Houses; § 1 to 1b, 73 C.J.S. Prostitution; § 6, 7

Constitutionality of statute conferring on chancery courts power to abate bawdyhouse as nuisance: 5 ALR 1474, 22 ALR 542, 75 ALR 129-

Number of females who reside in house or resort thereto for immoral purposes a-

ffecting disorderly character thereof: 12 ALR 529

Entrapment to commit offense as to house of prostitution or as to pandering: 52 ALR2d 1194

Construction of provision of pandering statute as to placing a female in charge of custody of another: 54 ALR2d 1176

Sec. 11.66.140. Corroboration of certain testimony not required. In a prosecution under AS 11.66.110 — 11.66.130, it is not necessary that the testimony of the person whose prostitution is alleged to have been compelled or promoted be corroborated by the testimony of any other witness or by documentary or other types of evidence. (§ 8 ch 166 SLA 1975)

NOTES TO DECISIONS

For case construing former rule as to corroboration of prostitute's testimony, see Johnson v State, Sup Ct Op No 632 (File No 1338, 501 P.2d 762 (1972)).

For cases construing former statute

providing that common fame was competent evidence in a prosecution for keeping a bawdyhouse, see Botts v United States, 155 F. 50 (9th Cir 1907), Hall v United States, 155 F. 52 (9th Cir 1907).

Sec. 11.66.150. Definitions. In AS 11.66.100 — 11.66.150, unless the context requires otherwise,

- (1) "place of prostitution" means any place where a person engages in sexual conduct in return for a fee;
- (2) "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee;
- (3) "sexual conduct" means genital or anal intercourse, cunnilingus, fellatio, or masturbation of one person by another person. (§ 8 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.61.909

Article 2. Gambling Offenses.

Section	Section
200. Gambling	240. Possession of gambling records in the second degree
210. Promoting gambling in the first degree	250. Affirmative defenses
220. Promoting gambling in the second degree	260. Possession of a gambling device
230. Possession of gambling records in the first degree	270. Forfeiture
	280. Definitions

§ 11.66.110

degrees were af-
State Sup Ct
668 P.2d 1133

+ Gilbertath v.
278 (File No.

Ct App Op
673 P.2d 781

Ct App Op
68 P.2d 1212

Ct App Op
716 P.2d 5

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P.2d 261

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§ 11.66.120

CRIMINAL LAW

§ 11.70.030

volve different intents and different con- furthered Bell v. State Ct App Op No
ducts and differing societal interests are 255 (File No. 5821), 668 P.2d 629 (1983)

Sec. 11.66.120. Promoting prostitution in the second degree.

NOTES TO DECISIONS

Promoting prostitution and manag- did not violate double jeopardy since the
ing prostitution enterprises. — Punish- offenses proscribed by the two statutes in-
ment for inducing or causing a person un- volve different intents and different con-
der the age of 16 to engage in prostitution ducts and differing societal interests are
(AS 11.66.110 a)(2)) and for managing furthered Bell v. State Ct App Op No
supervising, controlling or owning a pro- 255 (File No. 5821), 668 P.2d 629 (1983)stitution enterprise (AS 11.66.120 a)(1))

Sec. 11.66.130. Promoting prostitution in the third degree.

NOTES TO DECISIONS

Quoted in Bell v. State Ct App Op
No. 255 (File No. 5821), 668 P.2d 629
(1983).

Sec. 11.66.140. Corroboration of certain testimony not re-
quired.

NOTES TO DECISIONS

Cited in Bell v. State Ct App Op No.
255 (File No. 5821), 668 P.2d 629 (1983).

Sec. 11.66.150. Definitions.

NOTES TO DECISIONS

Quoted in Bell v. State Ct App Op
No. 255 (File No. 5821), 668 P.2d 629
(1983).

Chapter 70. Miscellaneous Provisions.

Secs. 11.70.010 — 11.70.030. Intent to defraud; use of evidence by
person on charge of perjury; intoxication as defense. [Repealed, § 21,
ch 166, SLA 1978. For current law, see AS 11.46.990(10), 11.81.630.]

Editor's notes. — The repeal line
above is set out to correct an error in the
main pamphlet.

applies to the offense of felon in possession of a concealable firearm. *State v. LaPorte*, Ct. App. Op. No. 306 (File No. 7220, 7285), 672 P.2d 466 (1983).

Conviction upheld. — A person may be convicted of being a felon in possession of a concealable firearm while the predicate conviction is on appeal and the sentence stayed. *Berg v. State*, Ct. App. Op. No. 564 (File No. A-666, 711) P.2d 553 (1985).

Conviction and sentence upheld. — See *Ascan v. State*, Ct. App. Op. No. 572 (File No. A-703, 711) P.2d 1195 (1985).

Conviction and sentence for kidnapping, assault in the first degree, misconduct involving weapons in the first degree

and robbery in the first degree were affirmed. See *Wortham v. State*, Sup. Ct. Op. No. 414 (File No. 7353), 659 P.2d 1133 (1984).

Sentence upheld. — See *Gilbreath v. State*, Ct. App. Op. No. 278 (File No. 7097), 668 P.2d 1354 (1983).

Applied in. *Shaw v. State*, Ct. App. Op. No. 313 (File No. 7561), 678 P.2d 763 (1983).

Cited in. *State v. Frazier*, Ct. App. Op. No. 460 (File No. A-415), 695 P.2d 1212 (1985); *Ackermann v. State*, Ct. App. Op. No. 609 (File No. A-931), 716 P.2d 5 (1986); *State v. Frazier*, Sup. Ct. Op. No. 361 (File No. S-972), 719 P.2d 261 (1986).

Sec. 11.61.210. Misconduct involving weapons in the second degree.

NOTES TO DECISIONS

Sentence affirmed. — See *Ascan v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1195 (1985).

Chapter 66. Offenses Against Public Health and Decency.

Article 1. Prostitution and Related Offenses.

Sec. 11.66.110. Promoting prostitution in the first degree.

NOTES TO DECISIONS

Precluding mistake of age as defense. — Subsection (b) of this section, which expressly dispenses with mistake of age as a defense to promoting prostitution in the first degree, does not violate due process of law. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 665 P.2d 829 (1983).

Under the Revised Alaska Criminal Code, it is defendant's intentional procurement of a person under the age of 16 years for prostitution that renders him liable for first-degree promoting, regardless of his actual awareness of that person's age. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 665 P.2d 829 (1983).

The act of procuring another for pur-

poses of prostitution is *malum in se*, without regard to the age of the person procured, and thus, in a prosecution for procuring a person under the age of 16 years, the intent to procure satisfies the minimal constitutional requirement of criminal intent. *Bell v. State*, Ct. App. Op. No. 288 (File No. 5821), 665 P.2d 829 (1983).

Promoting prostitution and inducing prostitution enterprise. — Punishment for inducing or causing a person under the age of 16 to engage in prostitution (AS 11.66.110(a)(2)) and for managing, supervising, controlling or owning a prostitution enterprise (AS 11.66.120(a)(1)) did not violate double jeopardy since the offenses proscribed by the two statutes in-

8 HB 28

11.65.030

§ 11.66.100

CRIMINAL LAW

§ 11.66.110

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).
There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Collateral references. — 63 Am. Jur. 2d, Prostitution, § 1 et seq.
27 C.J.S., Disorderly Houses, § 1 et seq.;
73 C.J.S., Prostitution, § 1 et seq.
Constitutionality and construction of pandering acts, 74 ALR 311.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases, 77 ALR3d 519.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.
(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdy-house was a misdemeanor at common law, whereas fornication and prostitution were not. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.
This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).
Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).
Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1501.
Entrapment to procure women for

immoral purposes, 18 ALR 186; 66 ALR 478; 86 ALR 263.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Chapter 23. Municipal Officers and Employees.

[Repealed, § 16 ch 118 SLA 1972; § 24 ch 83 SLA 1979; § 88 ch 74 SLA 1985.]

Chapter 25. Municipal Enactments.

Section	Section
10. Acts required to be by ordinance	50. Codification
20. Ordinance procedure	60. Resolutions
30. Emergency ordinances	70. Penalties
40. Codes of regulation	

Sec. 29.25.010. Acts required to be by ordinance. (a) In addition to other actions that this title requires to be by ordinance, the governing body of a municipality shall use ordinances to

- (1) establish, alter, or abolish municipal departments;
- (2) provide for a fine or other penalty, or establish rules regulations for violation of which a fine or other penalty is imposed;
- (3) provide for the levying of taxes;
- (4) make appropriations, including supplemental appropriations or transfer of appropriations.
- (5) grant, renew, or extend a franchise;
- (6) adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;
- (7) approve the transfer of a power to a first or second class borough from a city;
- (8) designate the borough seat;
- (9) provide for the retention or sale of tax-foreclosed property;
- (10) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025; this paragraph applies to home rule and general law municipalities.

(b) This section grants no authority but requires the governing body to use ordinances in exercising certain of its powers. (§ 8 ch 74 SLA 1985)

Opinions of attorney general. — The borough assembly could levy taxes only by means of an ordinance enacted under the terms of a former, similar provision. 1963 Op. Att'y Gen. No. 25.

Under a former, similar provision, where a proposed incorporation petition provided that public health services should be administered not by the bor-

ough assembly but by a board of health which was to be appointed by the borough assembly, but otherwise to operate autonomously in making rules and regulations with the force of law, such rules and regulations would have been illegal ordinances since they would have been promulgated by the board of health rather than by the borough assembly. The board of health would have constituted a borough department illegally established by the incorporation petition, and not by ordinance. 1962 Op. Att'y Gen. No. 9.

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 343-422.

62 C.J.S., Municipal Corporations, § 411 et seq.

Prohibiting or regulating removal or exploitation of oil and gas, minerals, soil, or other natural product within municipal limits. 10 ALR3d 1226.

Civil liability of private person as affected by invalidity of statute or ordinance for violation of which arrest was made. 16 ALR3d 535.

Validity of statute, ordinance, or charter provision requiring that workmen on public works be paid the prevailing or current rate of wages. 18 ALR3d 944.

Validity of loitering statutes and ordinances. 25 ALR3d 836.

Validity of municipal regulation of aircraft flight paths or altitudes. 36 ALR3d 1314.

Validity and construction of municipal ordinances regulating community antenna television service (CATV). 41 ALR3d 384.

Validity of statute, ordinance, or regulation requiring fingerprint of those engaging in specified occupations. 41 ALR3d 732.

Validity and construction of zoning ordinance regulating architectural style or design of structure. 41 ALR3d 1397.

Validity and construction of state and municipal enactments regulating lobbying. 42 ALR3d 1046.

Validity of statute or ordinance forbidding pharmacist to advertise prices of drugs or medicines. 44 ALR3d 1301.

Validity and construction of statute or ordinance respecting employment of women in places where intoxicating liquors are sold. 46 ALR3d 369.

Validity and construction of statute or ordinance regulating or prohibiting self-service gasoline filling stations. 46 ALR3d 1393.

Validity, construction, and application

of enactments restricting land development by dredging or filling. 46 ALR3d 1422.

Validity of municipal ordinance imposing income tax or license upon nonresidents employed in taxing jurisdiction (commuter tax). 48 ALR3d 343.

Buffer provision in zoning ordinance as applicable to abutting land in adjoining municipality. 48 ALR3d 1303.

Operation of nude-model photographic studio as offense. 48 ALR3d 1313.

Validity and construction of statute or ordinance forbidding treatment in health clubs or massage salons by persons of the opposite sex. 51 ALR3d 936.

Validity of municipal regulation more restrictive than state regulation as to time for selling or serving intoxicating liquor. 51 ALR3d 1061.

Validity and construction of regulations dealing with misrepresentation in the sale of Kosher food. 52 ALR3d 959.

Validity of municipal ordinances regulating time during which restaurant business may be conducted. 53 ALR3d 942.

Modern status of the law as to validity of statutes or ordinances requiring notice of tort claim against local governmental entity. 59 ALR3d 93.

Validity and construction of curfew statute, ordinance, or proclamation. 59 ALR3d 321.

Validity and construction of statute or ordinance prohibiting commercial exhibition of malformed or disfigured persons. 62 ALR3d 1237.

Application of city ordinance requiring license for laundry, to supplier of coin-operated laundry machines intended for use in apartment building. 65 ALR3d 1296.

Validity and construction of statutes or ordinances providing for arbitration of labor disputes involving public employees. 68 ALR3d 885.

Application of statute or regulation dealing with registration or carrying of weapons to transient nonresident. 68 ALR3d 1253.

Larceny as within disorderly conduct statute or ordinance. 71 ALR3d 1156.

Validity and construction of ordinance prohibiting roof signs. 76 ALR3d 1162.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases. 77 ALR3d 519.

Validity of statutes, ordinances, and regulation requiring the installation or maintenance of various bathroom facilities in dwelling units. 79 ALR3d 716.

Stiffer sentences will cure Spenard's red-light problem

Dear Editor:

On Nov. 26, you printed a letter from Mr. Dave Donley entitled, "Downtown clean-up creates problems in Spenard." In this letter, Mr. Donley states the case for Spenard fairly well, but he seems to be unaware that there is an alternative. Neither downtown Spenard, nor any other part of our city of borough, needs be resigned to the fact that whores can take over our city and not be stopped. This is not a fact!

When the question was raised some time ago between the legitimate business people of Anchorage and the whores that frequent our city over the territory around the Red Ram, our police chief appeared on television one night to deliberate the problem in a panel discussion. He stated then that Anchorage was overrun by whores because the West Coast cities had increased the jail terms for offenders. In other words, the time served for committing an offense was so stiff, and the result of could no longer continue to make a living from prostitution in those cities and had to come to Anchorage to survive.

Now, if the West Coast cities' philosophy had worked so well for them, the same would hold true and work for Anchorage. However, for this to work we need to enforce stronger legislation against prostitution. So far, I have not heard a single one of our lawmakers, who are

Letters to the editor

entrusted with the job of working for the good of our town, introduce this subject for discussion. Nor are they likely to until the aggrieved people and business persons of Anchorage request changes in our ordinances and insist that they be made.

This brings another subject to

light: bail. The bail business should be stopped, eliminated completely when dealing with this particular type of crime. When an arrest is made for soliciting, the guilty party should be placed in jail until such time as the court can hear their case. Then, upon conviction, the sentence should be 20 to 30 days

in jail for the first offense and this sentence should be doubled for each subsequent conviction. Thirty days should mean 30 days and no time off should be given for good behavior or for any other reason. This request by the business people of the community may not get much attention at first. They may have to finally resort to descending upon an assembly meeting in the force of 200 to 300 at a time, like the crowds Rufus

Dill used to bring in from Mountain View to convince the old city council that they did not want a bar, before some results is finally achieved. In 1976, I owned and operated the Commercial Liquor Store at Fourth Avenue and D Street. A gang of six or eight whores decided to take over that corner including my store. When I talked to policemen about the obvious violation, they said that it did no good to arrest the offenders, because they would just be bailed out and back in business at the same street corner before his shift was over that same day. I understand that their bail was as little as \$100, and that they could make that amount easily within a couple hours. If this is still the case, is it any wonder that the town is overflowing with whores?

It may be that our legislature has set a limit on the time the municipality can imprison the business community and from citizens of the community

in ever increasing amounts before the legislature will change anything.

Dave says we need foot patrols along Spenard Road. Without asking the chief of police about his manpower situation, I already know that he is short both the manpower and the fundings needed to carry this suggestion through. Besides, it is absolutely unnecessary if the changes in sentencing that I have proposed are implemented.

From my own personal experience, I can assure people along Spenard Road that the problem will not "go away" until they organize and make their demands known so that our town becomes a place where a whore would dread to be caught soliciting. The whores would decrease rapidly, and I would like to see how many would still remain after two or three were assured 20 to 30 continuous days in jail for their efforts.

Archie Caudy
4204 Harrison Drive

Anch Times
2/18/86

From get
me the
bills
done

Measures focus on prostitutes

Times Juneau Bureau

JUNEAU — Prostitutes in areas such as Spenard would have to stay off the streets or go to jail if two bills introduced in the state House clear the legislature this year.

The package of legislation would apply to prostitutes across the state, but it is aimed at Spenard, where prostitution activity has stirred controversy in the past.

"(The measure) is designed to rid Spenard and the rest of Alaska of streetwalkers," Rep. Roger Jenkins, R-Anchorage, said in a prepared statement. Jenkins introduced the bills.

One measure would create a law making it illegal to loiter or wander "along public streets without any apparent reason or business."

A companion bill would hand one-year jail sentences to second-time offenders. Currently, those arrested a second time for prostitution get 90 days in jail.

"The residents of Spenard are sick and tired of being known as the prostitution headquarters for Anchorage," said Jenkins, who represents the area.

He said the issue of "prostitutes flaunting themselves on Spenard Road" was the top concern listed by residents responding to his most recent newsletter.

Activity by prostitutes on the streets of downtown Anchorage and the Spenard area of the city has been a matter of concern for merchants, police and city officials.

Merchants have complained that prostitutes have driven prospective customers away from their businesses.

Last summer police moved to rid downtown streets of prostitutes, and merchants said the crackdown reduced street traffic in the area.

Anchorage police had five officers patrolling on foot during the summer and part of the fall, including an officer stationed at Fourth Avenue and Barrow Street virtually around the clock.

Undercover officers concentrated on prostitution and drug crimes in the area, and made 44 arrests related to alleged drug crimes during the crackdown, Commissioner of Public Safety Joe Franklin said.

But some business people said the crackdown simply moved the prostitution problem from downtown to Spenard.

HB 540
HB 591
HB 685

Municipality of Anchorage

MEMORANDUM

RECEIVED

JAN 28 1986

DATE: January 28, 1986
TO: Commissioner of Public Safety
FROM: Deputy Chief Otte
SUBJECT: Prostitution in the Spenard Area

MUNICIPALITY OF ANCHORAGE
OFFICE OF PUBLIC SAFETY

The following information concerning prostitution in the Spenard area is submitted for your review.

During the past 5 1/2 months, approximately 50 prostitution related arrests have been made in the Anchorage area. For the most part these arrests are evenly divided between the downtown area and the Spenard area. The majority of arrests are for street prostitution offenses, but there are also several involving the various escort services located in the Spenard area. During the past few weeks we have continued to make cases as time and resources allow, however numerous felony cases requiring the assistance of the officers normally assigned to prostitution cases have limited our response.

Currently the three officers assigned to the night shift detective general investigation unit focus most of their time on prostitution related problems. They are supplemented as time permits by the area patrol cars and on occasion by members of the Crisis Intervention Response Team. It is our intent as warmer weather approaches to apply additional resources from Investigations, Patrol and special units in an attempt to preclude the problems experienced last summer both downtown and in the Spenard area. I believe that we can create an environment from an enforcement perspective, in which prostitutes find other locations outside of Anchorage much more pleasant and desirable.

It must be remembered that a long term solution to the prostitution problem in Anchorage requires more than just a commitment on the part of the police department. Our enforcement efforts are only a small portion of the total equation. The rest of the criminal justice system must be committed to dealing with the problem before any long term results will be visible. Although we have repeatedly stressed this point, it has always been overlooked and ignored in years past. When we make arrests, the prosecutor's office must be willing and able to provide the prosecutorial resources necessary. Additionally, and probably most important, the courts must begin to sentence convicted prostitutes in a manner that reflects the feelings within the community. Suspension of jail time and moderate fines will not deter prostitutes from practicing their trade openly on the Anchorage streets.

Commissioner of Public Safety
January 28, 1986
Page Two

Interviews with prostitutes arrested by APD officers during this past summer reveal that most prostitutes come to Anchorage for two reasons. First, they have heard rumors about the money to be made in Alaska. Secondly, crackdown on prostitution in other jurisdictions in the Lower 48 have made Anchorage a more desirable location. In tracking 20 prostitution arrests through the justice system recently, it was learned that only one case resulted in the convicted prostitute receiving any jail time. I do not feel that prostitutes interested in working in Anchorage would feel particularly concerned by these kinds of sentences from the courts.

The other issue that has surfaced periodically concerning prostitution in the Spenard area has to do with the large concentration of massage parlors. While the issues previously discussed apply to individual prostitutes working out of the massage parlors, this in itself would not remove the parlor from existence. It has been our experience that the only way to remedy the large numbers of massage parlors is to initiate and follow through with a civil abatement process against the individual residences. This again requires a long term commitment on the part of the prosecutor and Municipal Attorney's office as well as a long term commitment on the part of the police department to provide the necessary resources to gather the needed information.

I will continue to apply enforcement pressure with the resources available but would request that we attempt a coordinated approach to the problem so as to insure a more long term solution.

Respectfully,



R. Otte
Deputy Chief, Operations

RO:d1

(4) HB 28

JAN 27 1987
Terry CRA
"mem"



Spenard Action Committee

2308 West 47th Street • Anchorage, Alaska 99517
Phone (907) 243-7768

January 23, 1987

TO: The members of the House of Representatives;

My name is David Erlich, I am Chairman of the Spenard Action Committee, a non-profit corporation made up of citizens of the Anchorage area.

Our concern for our community and city are real and sincere. Crime in Anchorage has come a long way the past 20 years and in some respects has surpassed many major cities outside. Our rape rate is the highest in the nation, 5 times the national average, pornography sells at 6 times the national average, organized crime has infiltrated our city as well and now enjoys freedom of operation in prostitution, gambling, pornography, drugs and other activities.

Our laws in the State of Alaska are probably the weakest in the nation to deal with this ongoing threat. We are currently the only state which does not have a conspiracy bill dealing with these activities. Dave Donley bill, HB30 would pertain only to certain crimes but would aid law enforcement authorities here in Anchorage to deal with these certain situations.

Another bill, HB28, deals with the prostitution problems here in our city and would not impact other areas of the state. By allowing the municipality to institute mandatory minimum sentences on a first offense, second offense and third offense basis this will mirror what other cities have done outside to curb their prostitution problems. We currently have 30-40 houses of prostitution operating in Anchorage with a summer influx of hundreds of streetwalkers, who find Anchorage easy prey and weak laws inviting. Your concern and understanding of our particular situation will be greatly appreciated.

In closing, the passage of these bills will help crime prevention in our city, protect the communities retail trade, maintain property values and generally protect and preserve the quality of our neighborhoods, commercial districts and the quality of urban life.

Sincerely,

David Erlich
Spenard Action Committee Chairman

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 17, 1986

SUBJECT: Mandatory sentences for prostitution
(Work Order No. 15-0301)

TO: Representative Max Gruenberg

FROM: Keith B. Levy ^{KBL}
Legislative Counsel

You have asked whether legislation would be required to enable municipalities to adopt ordinances providing for a mandatory minimum sentence for prostitution, and if so, whether such legislation would present any constitutional difficulties. I have concluded that while municipalities do not have the authority under existing law to enact such an ordinance, the legislature may grant that authority without running afoul of the constitution.

The Alaska Supreme Court has made it clear that a municipality may make prostitution a crime even though prostitution is already a crime under state law: "It is settled that an act may be made a penal offense under state statute, and also made punishable under an ordinance of a municipal corporation." Wester v. State, 528 P.2d 1179, 1185 (Alaska 1974).

In a later case, however, the court considered whether the City of Kodiak had the authority to enact an ordinance prescribing a mandatory minimum sentence for an offense. Article X, sec. 11, of the Alaska Constitution provides that "a home rule borough or city may exercise all legislative powers not prohibited by law or by charter." Thus, an ordinance is only invalid if it is somehow prohibited by statute or by the municipality's charter. Citing earlier cases, the court applied the following test for determining whether a municipal ordinance is invalid under state law:

A municipal ordinance is not necessarily invalid in Alaska because it is inconsistent or in conflict with a state statute. The question rests on whether the exer-

Representative Gruenberg

Page 2

December 17, 1986

cise of authority has been prohibited to municipalities. The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded the weight of law. City of Kodiak v. Jackson, 584 P.2d 1130, 1132 (Alaska 1978).

The court concluded that the mandatory minimum sentencing provisions were irreconcilable with certain criminal procedure statutes and were therefore invalid. However, the decision was based on the fact that the ordinance could not be reconciled with existing state law. There is nothing in the decision to indicate that the legislature could not amend existing law to expressly permit a municipality to enact an ordinance providing for mandatory minimum sentences. The enclosed bill draft does that with respect to prostitution and cures the problems raised in the City of Kodiak case.

If I may be of further assistance, please advise.

KBL:mkr
m7/073

Enclosure

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : HB28
Publish Date : _____

Revision Date: _____
Title: "An Act relating to municipal
penalties for prostitution."
Sponsor: Repr. Donlev
Requestor: House Community and Reg. Affs.

Agency Affected: Department of Law
BRU: Prosecution
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard F. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: 1/21/87
Ronald W. Lorenson
Approved by Commissioner: Acting Attorney General Date: 1/21/87
Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB28

This bill amends AS 29.25.070(a) by providing that municipalities may, under local ordinance, prescribe penalties for prostitution that require a court to impose a minimum sentence equal to the maximum penalty allowed by existing statute, or a \$1,000 fine and imprisonment for 90 days. In this respect, the bill appears to encourage municipalities to seek the maximum allowable penalty in all instances.

Prosecution of municipal ordinance violations is a local responsibility, and such prosecution is not handled by the Department of Law. Consequently, enactment of this bill will not have a fiscal impact on the Department of Law.

The cost of imprisoning violators of municipal ordinances, in state corrections institutions, is reimbursed to the state by the respective municipalities. This reimbursement includes normal, day-to-day operating costs and a pro rata share of lease costs, where the state is using a leased facility. The reimbursement does not, however, include any charge for the state's capital expenses in building and furnishing new corrections facilities. To the extent that encouraging maximum periods of imprisonment may contribute to prison overcrowding, the unreimbursed expense to the state may be very great. This issue should be addressed by the Department of Corrections in a separate fiscal note.

H B

3 7

PUBLIC OPINION MESSAGE

(C) HB 37

DEAR: REPRESENTATIVE SPRINGER

NAME: LINDA CONLEY

TITLE: CITY CLERK

ADDRESS: BOX 281

CITY: NOME

ZIP: 99762

PHONE: 443-5242

BILL NO: HB 37

SUBJECT: SECTION 2 OF HB 37

MESSAGE: THE CITY OF NOME IS OPPOSED TO THE PROPOSED CHANGE IN A.S. 29.45.210

(B). SHIFTING BURDEN OF PROOF TO THE ACCESSOR COULD RESULT IN HIGHER CONTRACT

ASSESSMENT FEES FOR THE CITY OF NOME AND THE TAXPAYERS.

POMID: 11113211

DATE: 01/29/87

TIME: 11:32:11

LIONAME: NOME INFORMATION OFFICE

COPIES: REPRESENTATIVES

CATO
HERRMANN
COLLINS
ZAWACKI

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SPRINGER

NAME: ROGER GAY

TITLE:

ADDRESS: GENERAL DELIVARY

CITY: TALKEETNA

ZIP: 99676

PHONE: N/A-

BILL NO:

SUBJECT: STATEWIDE HEARINGS ON BUDGET

MESSAGE: I CONSIDER THE GOVERNOR'S TRAVEL PLANS TO BE A WASTE OF MONEY AND TIME

OUR STATE TELECONFERENCE NETWORK CAN AMPLY PROVIDE THE GOVERNOR WITH ANY AND ALL

INPUT HE SEEMS TO BE LACKING. SINCE THE GOVERNMENT IS ON THE SAME COMPUTER SYSTEM

AND THE BILLS ALREADY PAID, LETS USE IT. I WOULD NOW ASK YOU PERSONALLY

TO SEND MY SENTIMENTS DIRECTLY TO THE GOVERNOR, BEFORE HE GETS ON THE PLANE.

POMID: 14134930

DATE: 01/29/87

TIME: 13:49:30

LIONAME: MAT-SU LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BENNETT
BROWN	CATO	BINKLEY
COLLINS	COTTEN	COGHILL
DAVIDSON	DAVIS	DUNCAN
DONLEY	ELLIS	ELIASON
FRANK	FURNACE	FAHRENKAMP
GOLL	GRUENBERG	FAIKS
GRUSSENDORF	HANLEY	FISCHER
HERRMANN	HOFFMAN	HALFORD
HUDSON	KOPONEN	HENSLEY
LARSON	MARTIN	JONES
MENARD	MILLER	JOSEPHSON
NAVARRE	PEARCE	KELLY
PETTYJOHN	PHILLIPS	KERTTULA
POURCHOT	RIEGER	RODEY
SHULTZ	SUND	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

#	Date In	Doc. Type	Date	Subject	DESCRIPTION	From	Copied	Init.
①		Bill	1/19/7	HB 37				
②		FN	1-26-7	State Assessor.	DCRA			
③		Ltr.	2-5-7	TO HCRA	FR: Worley re Vern Wilton			
④		Pos. Rep.	1-26-7	DCRA	- opp HB 37 7 pgs			
⑤		Ltr.	1-21-7	TO: Worley	FR: Lewis AK Assn. Assessing Off. 5 pgs			
⑥		Ltr.	1-27-7	TO: Springer	FR: Tracy Handout from Gary Lewis 1/20/7 3 pgs			
⑦		Handout/Notes		Handout from Taylor	Bd of Equal... 4 pgs			
⑧		Statutes		Pertinent Statutes				
Ai:2		W.R.	1-28-7	Wit Reg.				
B		Min	1-28-7	Minutes				
C		POM	1-29-7	TO: HCRA	FR: Conley opp HB 37			
⑨		Memo	2-2-7	TO: Strickel	FR: Weber - Mu Assessor. Mu of ANC Fiscal Off. pkt.			
⑩		Resol.	1-30-7	AML - Resolution	opp. HB 37			
⑪		PKT.	5-9-6	TO: Jenkins	FR: Basa H Research Agency			
⑫		Resol.	2-3-7	ANC Resol	87-33 opp HB 37			
⑬		Teleg.	2-3-7	TO: Spr.	FR: Armstrong sup. HB 37			
D		W.R.	2-4-7	Wit Reg.				
E		Min	2-4-7	Minutes				
F		w.R.	2-6-7	Wit Reg.				
⑭		CS Draft	2/10/7	W. Draft CS	HB 37 5-0113B			
G		Min.	2-6-7	Minutes				
⑮		Ltr.	2-10-7	TO: Spr.	FR: Lewis AK Assessing Off.			
H		Ltr.	2-23-7	TO: Richards	FR: Juddbach - Min + tape			
I		Min.	2-11-7	Minutes				
J		W.R.	2-11-7	Wit Reg.				
⑯		L Rpt	2/11/7	Cern Rpt.				

① = Distributed, all files

Ⓛ = Master, Backup Next Com. Files

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House C+RA	1-28-87	3:00 p.m.
" "	2-4-87	3:00 p.m.
" "	2-6-87	3:00 p.m.
" "	2-11-87	3:00 p.m.

HOUSE COMMITTEE REPORT

16 HB 37

(5)

Date referred: 1/19/87

FURTHER REFERRALS: Finance

DATE: 02/11/87

The Community and Regional Affairs Committee has considered HB 37

"An Act relating to certain municipal property tax procedures; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Billings W. Jess R. Amundson
 (Do PASS IF AMENDED) th

SIGNING OTHER RECOMMENDATIONS:

Cato Bette Cato - No Rec
 Springer Heinrich Springer - No Rec
 Zawacki James Zawacki - No Rec

Springer Heinrich Springer
 Chairman's signature

(C) HB 37

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SPRINGER

NAME: LINDA CONLEY
TITLE: CITY CLERK
ADDRESS: BOX 281
CITY: NOME

ZIP: 99762

PHONE: 443-5242
BILL NO: HB 37

SUBJECT: SECTION 2 OF HB 37

MESSAGE: THE CITY OF NOME IS OPPOSED TO THE PROPOSED CHANGE IN A.S. 29.45.210 (B). SHIFTING BURDEN OF PROOF TO THE ACCESSOR COULD RESULT IN HIGHER CONTRACT ASSESSMENT FEES FOR THE CITY OF NOME AND THE TAXPAYERS.

POMID: 11113211
DATE: 01/29/87
TIME: 11:32:11
LIONAME: NOME INFORMATION OFFICE

COPIES: REPRESENTATIVES

CATO
HERRMANN
COLLINS
ZAWACKI

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

February 5, 1987

Report to House Community and Regional
Affairs Committee

From: Mike Worley *MW*
Office of the State Assessor
Department of Community and Regional Affairs

Authority Contacted: Mr. Vern Walton
Title: Director, California State Board of Equalization
Telephone Number: (916) 445-4982 or 4984

Mr. Walton explained that under California law the county assessor bears the burden of proof only if the property under appeal is an owner-occupied single-family dwelling. In all other appeals, the burden of proof falls on the appellant. He said the statute had been on the books for about ten years.

Mr. Walton was unable to estimate any impacts the shift of the burden of proof had caused in the appeal process because Proposition 13 was adopted in California at about the same time. The operation of Proposition 13 dramatically changed both assessment activities and the appeal process throughout the State.

Under Proposition 13, the county assessor revalues property only if it is conveyed to another party. At the time of conveyance, the selling price of the property, under California law, is required to be made public. When the assessor appraises the property, both he and the owner know the amount of the sale. For that reason, the resulting assessed value of the property is normally the same as, or extremely close to, the actual selling price. According to Mr. Walton, appeals to the Board are almost nonexistent for that reason.

In California it is illegal to appeal an assessed value based on unequal valuation. Obviously, since an assessment can only be changed when the property sells, Proposition 13 created vast assessment inequities between and among properties. The Board of Equalization cannot change assessment inequities created by that initiative and, therefore, cannot consider appeals based on inequitable valuations.

3 HB 37

STEVE COWPER, GOVERNOR

- P.O. BOX 8H
JUNEAU, ALASKA 99811-2110
PHONE: (907) 465-4750
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 561-8588
- P.O. BOX 348
BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475
- P.O. BOX 41
NOME, ALASKA 99762-0041
PHONE: (907) 443-5457
- P.O. BOX 280
KOTZEBUE, ALASKA 99752-0280
PHONE: (907) 442-3675
- 1514 CUSHMAN STREET, ROOM 210
FAIRBANKS, ALASKA 99701-6288
PHONE: (907) 452-7128
- P.O. BOX 10041
DILLINGHAM, ALASKA 99576-0041
PHONE: (907) 842-2245

Report to House Community
and Regional Affairs Committee
February 5, 1987
Page 2

In the regulations promulgated by the State Board of Equalization, which set out the procedures for hearing appeals, the burden of proof is described as the first obligation to produce evidence in support of the party's position. Once that burden has been met, the burden of producing evidence shifts back and forth from the appellant to the assessor through the remainder of the hearing.

The statute and regulations described here are in the mail to us at this time. When they arrive, we will provide copies of them for the information of the committee.



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: February 11, 1987

SIGN-IN

Subject of meeting: (J) HB 37

*HB. 65 Dissolution of a Municipality
HB 37 Municipal Property Tax procedures
HB 68 Authority of Fire Dept. Officers

NAME (PLS PRINT)	YOUR TITLE & ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Bill Hagenig	Box 423 Douglas 99824	364-2154	Grotonese Chapter Alaska State Firefighter	Yes HB 68 ✓
Sam Richards	155 S. Seward Juneau 99801	586-5221	Alaska Assessing District Association	No -
Gordon Brunton	450 Whittier	465-4331	Dept. Public Safety	Yes HB 68 ✓
Ron Somerville	Executive Director JUNEAU	789-2399	AK. Outdoor Council	Yes HB 65 ✓
MARK EARNEST		465-4985	SEN BANKLEY	No
DOUG GRIFFIN		4750	C&RA	Yes 65 ✓
Lyman Hoffman		4350		Yes 65 ✓
GENE THERIAULT	FOR REP. MILLER	4976	REP. MILLER	YES ✓
MIKE WOLLEY	P.O. BX 15H, JUNEAU	4787	C&RA	HB 37 YES
Doug Mertz	Asst. At. Gen. Deputy. Law	3000	Law	

(H) HB 37



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

February 23, 1987

Mr. Sam Richards
Senior Field Appraiser
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801

Dear Mr. Richards:

Enclosed please find a copy of the House Community and Regional Affairs Committee minutes from the February 6, 1987 meeting, per your request. A copy of the witness register is also included.

As of yet, I have not received a blank tape from your office to duplicate the meeting tape on to. Should you still want a copy, just send me a blank, 90 minute cassette tape and I will be happy to have it duplicated for you.

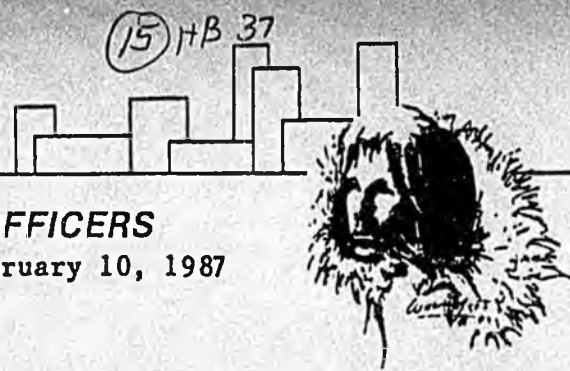
Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Martha Fischbach".

Martha Fischbach
Secretary
Community and Regional Affairs

Enclosures



(15) HB 37

Terry
HR 37 file

ALASKA ASSOCIATION OF ASSESSING OFFICERS

February 10, 1987

Rep. Springer, Chairman, House
Community & Regional Affairs Comm.
P. O. Box V, Mail Stop 3100
Juneau, AK. 99811

FEB 12 1987

Dear Rep. Springer:

REFER: HR 37

It is my understanding that a sponsor substitute bill is being prepared for introduction at your next committee meeting.

As you can appreciate, this bill has great interest and impact on all local municipalities; for that reason I would ask that no action be taken on a substitute until time is allowed for comment by those affected.

To my knowledge, the concept to be proposed is based on California Statute emanating from the Proposition 13 flap which was considerably more controversial than what we have been debating. It is important to note that the burden of proof question was closely linked to mandatory disclosure of price for all transactions based on the concept that the assessor, if required to prove value, must have all the information to do so.

I am not certain that AAAO, or the sponsor, or the legislature or local municipalities really want to tread very close to the provisions of Proposition 13.

In view of these facts:

Except for Anchorage the incidence of appeal is very low based on previous testimony.

Fiscal impact on local government is high.

The system works in present form.

No party, other than the sponsor, has offered reasoned support for the bill.

Nearly every community of the State has spoken out against the bill.

The AML and AAAO have opposed the bill.

The very drafting of the bill presents an incoherent statement in the law.

Supreme Court decision concludes inappropriateness of the concept.

This departure from common administrative procedures can affect other appellant hearings.

The Bill will cause Boards of Equalization to hear increased Agendas.

Please entertain and adopt a "do not pass" recommendation.

Sincerely,

Gary A. Lewis

Gary A. Lewis
President

ys

cc: AAAO Board
AML Executive Director
State Assessor



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: February 4, 1987

SIGN-IN

Subject of meeting: HB 37

HB 37, Further consideration of an Act relating to certain municipal property tax procedures.

HB 28, Further consideration of an Act relating to municipal penalties for prostitution

NAME (PLEASE PRINT)	ADDRESS (COMPLETE)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
✓ MIKE WORLEY	P.O. Box BH, JUNU, AK. 99811	465-4787	DCRA	YES
✓ GAILE HORETSKI	P.O. BOX KC, JUNEAU	x 3428	DEPT. OF LAW	YES - HB 28
Scott Burgess	Juneau	6-1325	AML	Yes HB 37
✓ Roger Jenkins	2201 Roosevelt	465-3875	Self.	
✓ Shirley Armstrong	6430 E 9th Ave	465-4939	Self	no
Rep. Dave Donley		3892	Sponsor HB 28	yes
Rep. Robin Taylor	Dist. 1A	4905	Sponsor HB 37	yes



(13) HB 37

Telegram

09019

1987 FEB 3 22 31

NL ANCHORAGE AK 50 02-03 929P AST

PMS

REP SPRINGER

FEB 4 1987

Sp.
CRA - file
HB 37

0025

JUNEAU AK

Terry

I WHOLEHEARTEDLY SUPPORT HB37. THE ANCHORAGE BOROUGH USES SCARE TACTICS WHEN YOU FILE APPEALS. REPRESENTATIVE TAYLOR SHOULD BE COMMENDED FOR HIS COURAGE. THE BOROUGH IS SUPPOSED TO WORK FOR US NOT US FOR THE BOROUGH.

SINCERELY,

THOMAS D ARMSTRONG

6430 EAST 9 AVE

ANCHORAGE AK 99504

(12) HB 37

Submitted by: Chairman of the Assembly
at the request of the
Mayor

Prepared by: Finance Department
For reading: February 3, 1987

ANCHORAGE, ALASKA
AR NO 87- 33

A RESOLUTION OPPOSING HB 37 AND SB 77 PERTAINING TO CHANGES IN ALASKA
STATUTE 29.45

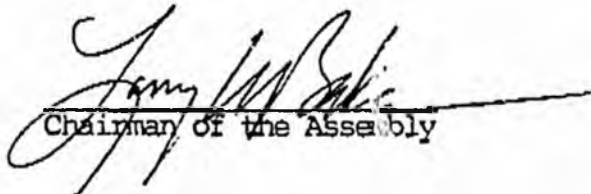
WHEREAS, HB 37 and SB 77, each an act relating to certain municipal property tax procedures, have been introduced in the Alaska Legislature and,

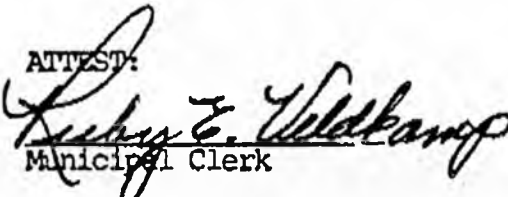
WHEREAS, HB 37 and SB 77 directly affect the Municipality of Anchorage,

NOW, THEREFORE, BE IT RESOLVED by the Municipality of Anchorage Assembly that:

1. The Assembly strongly opposes both HB 37 and SB 77. Alaska Statute 29.45 already places the responsibility on the assessor to maintain fair and equitable assessments. In addition, Alaska Statute 29.45 requires a summary of assessment data be provided to the Board of Equalization which details information justifying the assessor's reasons for the assessments being appealed. Placing the total burden of proof upon the assessor would result in the submission of appeals which would have no basis and would hinder the assessor's ability to provide quality resolution of other substantive appeals.
2. The Assembly strongly urges that no change be made to the current Alaska Statute 29.45 regarding the burden of proof.

PASSED AND APPROVED this 3rd day of February, 1987.


Chairman of the Assembly

ATTEST:

Municipal Clerk



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

(11) HB 37

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 9, 1986

MEMORANDUM

TO: Representative Roger Jenkins

ATTN: Shirley Armstrong

FROM: Nancy Pease *Nancy Pease*
Legislative Analyst

RE: Appeal of Municipal Property Tax Assessments
Research Request 86-195

At your request, this memorandum provides information on the procedure in other states by which taxpayers may appeal their property tax assessments. Specifically, you asked whether the property owner or the assessor has the burden of proof in other states; and whether the property owner has access to the records and methods the assessor uses in appraising the property.

Most states require both the assessor and the taxpayer to submit evidence in support of their proposed value for the property, but the taxpayer has the burden of proof. For example, in Montana the assessor must document that three or four comparable properties have a similar assessment to demonstrate that the taxpayer has not suffered discrimination. However the Montana taxpayer has the burden of producing "overwhelming refuting evidence" that his property has been wrongly appraised.¹

Of the 21 states I surveyed, only one state, California, did not place the burden of proof on the taxpayer.² In California, when an owner/occupant appeals his property tax appraisal, the burden of proof is on the assessor. However, if an owner appeals the assessment of a property which he does not occupy, the burden of proof is on the owner.

¹Greg Gripper, Montana Department of Revenue, Administrator of Property Tax Assessment Division.

²The states surveyed are: Arizona, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Maine, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Washington and Wyoming.

Representative Jenkins
May 9, 1986
Page Two

Colorado exempts the taxpayer from the burden of proof if his property contains non-producing mineral reserves and the assessor has appraised the value of the property to include the minerals. In this case, the owner can appeal to have his assessment reduced to the surface value of the property without the burden of proving the value of his mineral reserves.

In some states, either the assessor or the taxpayer may appeal the case to a higher administrative authority or to the courts if dissatisfied with the initial local ruling. At the second or third stages of appeal, if the assessor is the appellant, the assessor may have the burden of proof.

Aside from the burden of proof, taxpayers who wish to appeal their assessments are, in some states, affected by other requirements for substantive evidence. In Illinois, at the local level of appeals, the taxpayer must produce enough evidence to justify a de novo hearing at the State level of appeals.³ The taxpayer's initial challenge need not be supported by a preponderance of evidence; but in the hearing stages, the taxpayer and the assessor must both present a preponderance of evidence in support of their valuations. In an equity case, where an Illinois taxpayer claims that he has been the victim of systematic improper assessment, the taxpayer has the burden of producing clear and convincing evidence that is sixty to sixty-five percent in his favor. According to Jane Sylvia of the Illinois Property Tax Appeals Board, Cook County has a separate, stricter appeals procedure than the rest of the state; a Cook County property taxpayer must prove the issue of constructive fraud to win an appeal.⁴

In contrast to Illinois, the Georgia Assembly enacted a law in 1986 that any written objection submitted by a taxpayer constitutes an appeal, whether or not the complaint is specific or documented. Any written objection from a taxpayer compels the local tax board to review the property in question and respond to the taxpayer's complaint informally by telephone or mail with a second tax notice. If this

³A de novo hearing is a new hearing contemplating an entire trial in the same manner in which it was originally heard, with a review of the previous hearing. The court hears the matter as a court of original and not appellate jurisdiction.

⁴An Illinois taxpayer outside of Cook County must prove constructive fraud to win an appeal filed in court but has a lesser burden of proof if he files an administrative appeal. Constructive fraud exists where conduct, though not actually fraudulent, has all the legal effects of fraud.

Representative Jenkins
May 9, 1986
Page Three

second consideration does not resolve the taxpayer's complaint, the appeal is heard by the Georgia Board of Equalization.

Access to Tax Assessor's Records and Formulae

The twenty-one states surveyed permit different degrees of public access to the tax assessors' records and formulae. Fifteen states guarantee that a citizen shall, upon request, have virtually total access to information collected by the tax assessor. Some states allow the assessor to limit a taxpayer's access to those records which are reasonably relevant to the taxpayer's appeal.⁵

The Oregon Department of Revenue has conducted a public education program to inform taxpayers of the procedures for appealing tax assessments. Oregon also distributes to interested taxpayers copies of guidelines and other transmittals from the state department of revenue to county assessors. Oregon taxpayers are encouraged to meet in person with a tax assessor for a detailed explanation of the tax assessment procedure. Maine recently provided for completely open tax records by passing a measure (effective July 1) to allow public examination of real estate transactions with a declaration of value. In Maryland, the tax assessor's principal document, the "Cost Manual", is available to the public in all libraries. In addition, copies of the state's assessment procedures are available in public libraries because these procedures are departmental regulations rather than statutes.

Of the states which do not allow unconditional access to the tax assessor's records, the following restrictions apply:

- In Colorado, declarations of personal property filed by other persons are confidential. Some sources for data are also protected from public disclosure.
- In Nevada, neighborhood or comparable property values are presented upon a taxpayer's request, but a taxpayer may inspect

⁵Some tax officials cautioned that citizen access is limited, despite open records laws, by the record keeping procedures. In Illinois, according to a lawyer with the State Appeals Board, the information system is imprecise; it includes data from 14,000 township assessors and several hundred local tax boards. In South Carolina, a state property tax officer stated that the computer-assisted appraisal system might be difficult for citizens to understand without a direct explanation from the assessor.

Representative Jenkins
May 9, 1986
Page Four

other persons' property records only at the discretion of the assessor if the inspection is necessary for an appeal.

- Massachusetts's open records law permits public access to all tax records except for listings of a third party's tangible personal property and applications for abatement.
- Idaho has a confidentiality policy established by the State Tax Commission which restricts assessors from releasing information which they have received in confidence. The clerk of the Idaho Board of Appeals is sending a copy of the Tax Commission's guidelines which I will forward upon request.
- New Mexico does not permit inspection of other persons' property records.

* * * *

I hope this information is useful. If we can be of further assistance, please let us know.

NP

Tom Williams
Publisher

KTRN DAILY NEWS

7/6/86

Editorial

Pro-people bill

Property taxpayers should keep track of CSHB518 in the final days of the Legislature, which is scheduled to adjourn Monday. If the bill doesn't pass this session, there should be a strong push for its introduction and passage next year.

Committee Substitute for House Bill 518 is described as a housekeeping tax measure which does a lot of little things. But one amendment to the bill does a lot for local taxpayers. That amendment puts the burden of proof on the tax assessor in proving the value of the property in the event a taxpayer appeals his assessment. Under current law, unhappy taxpayers are often required to hire independent assessors and lawyers to prove a property assessment is too high.

Supporters of the amendment call it pro-people. Rep. Marco Pignalberi, R-Anchorage, said, "I'm going to get more satisfaction out of pushing the green button on this one than perhaps any other vote we've taken this year."

The amendment was authored by Rep. Roger Jenkins, R-Anchorage. And therein lies the problem. The amendment is sponsored by minority members of the House, meaning that it could be easily lost in the last-minute push for adjournment.

One majority member of the House, Rep. Pat Pourchot, D-Anchorage, has reservations about the amendment. He's afraid that assessors' offices would be flooded with appeals if the measure becomes law.

For us, that's all the more reason to pass the law. If property assessments are that out of whack, if assessing departments have so little public confidence, it's time for assessors to justify their actions.

CSHB518 passed the House Monday with the amendment. It'll come up for a reconsideration vote before it goes to the Senate. If the Senate doesn't act on it, then it dies.

The Senate should act. If it doesn't, the taxpayers should react by demanding action next year. The best way to do that is to ask the candidates on their stand in upcoming elections.

Anchorage Times 7/25/84

Why value old home at today's cost?

Dear Editor:

I appealed my exorbitant taxes. I have waited and waited. I requested personally and through The Times for an assessor to come to our home and explain why our taxes were so outrageous. No action until today. I received a notice that the lot (I did not argue about the lot, just the house) would still be \$45,000 and instead of the \$47,000 it would only be \$26,000 for the house. It would be reduced "to cost of replacement less 10 percent, per last year's decision." Which I had really protested.

I do not understand the rationale of the tax people charging replacement value for a dwelling. I am sure Mayor Tony Knowles would scream if he was charged for a 1986 Cadillac if he only owned a 1970 Volkswagen.

So someone please explain why a 1956 vintage house that will be bulldozed off when someone wants our property is worth the same for tax purposes as if it was a new, energy-efficient house with more than seven foot, six-inch ceilings.

Why value all floor space at the same rate? That is what it seems to me I am being assessed. I see the need of aerial views to locate all the buildings and property. But surely the assessors who assess should look at what information they have and realize which are 1915 solid construction that could be moved, and which are the mid-50s — ones build out of various things and are not worth moving.

What is the matter with truth in our government? Why don't the assessors have the guts to make realistic valuations? Is it to keep his taxes down on the many pieces of property he perhaps owns?

Assessors seem to decide what it might be worth to a developer, if he wanted it, then cover up the real price of property with a magical number and assess the house that.

They say would you sell for that price? They don't consider that there are memories in homes, trees, rhubarb plants, etc. So they force people out for otherwise your sunshine is shut off, by the surrounding high buildings.

We do think we need a place to have our 47 years of accumulations. We do not want a modern efficiency apartment with no yard. So just why is it necessary to value the older homes at the same value as the brand new ones? Is it because the new ones are faulty construction?

Our lovely trees and location make it desirable. The bus system is real handy and we can walk to the markets.

We would be a long ways down on the list to be eligible to be in the Senior Citizen Center. Is that what Anchorage wants is to build enough homes, that all of us over 65 will live in them and not protest the inequality of the way homes are assessed in Anchorage?

Unice McCurdy
Anchorage

Anchorage Convention
and Visitors Bureau
Anchorage

Flood's leg
what he did
changed by
every play

'Junk houses' don't represent city

Dear Editor:

I would like to make note of some facts that were overlooked in your recent article pertaining to buildings donated to the municipality for historical preservation.

First, said constructs were not log cabins, or architectural treats such as the Club 25. They were simple, old, conventionally constructed dwellings, whose only outstanding feature was their state of disrepair.

Second, any plans the borough may have been considering to designate an area especially for the preservation of historically significant buildings fell by the wayside, apparently as the easiest way out of the dilemma of being saddled with the donation of old junk houses that are not the least bit worthy of preservation, and should have been bulldozed right from the get-go.

I hope that in the near future we will again hear of this project being up for consideration, along with sensible guidelines as to what donation will or won't be accepted as fit for permanent display as an example of our fine pioneer days.

Royal S. Hull
Anchorage

Easy come, easy go in the U.S.A.

Dear Editor:

Boy . . . This is too much!!! Has it actually been said that Alaska is not in the United States? Nonsense!

I know I am in the United States because every Friday the



X

4

4

A

7,000 property owners appeal tax assessments

By DAVID POSTMAN
Daily News reporter

Anchorage property owners appealed their tax assessments in record numbers this year — as many as 7,000, according to city officials.

Most property owners interviewed said they filed appeals because tax appraisals were going up when the local real estate market was going down.

Jim Warren said he filed an appeal Wednesday because his condominium was assessed at \$70,500, "but in this market I would be very lucky to get \$60,000."

Stephanie Gunderson had a similar complaint. "Our's went up \$17,000 since last year and we haven't done a damn thing to it. Except for a little paint," she said.

City assessor, Phil Weber said appraisals have risen because the city is trying to assess property at

See Back Page, TAX

Daily News 4/17/86

TAX APPEALS: 7,000 figure the municipality has figured too high

Continued from Page A-1

100 percent of market value, as required by state law.

"I'm sure a lot of people are feeling that," he said. "I just don't think it's alarming."

Wednesday was the deadline for filing appeals. Weber said about 6,500 had been filed with the Municipal Clerk's office and another 500 could arrive in the mail.

Weber said the large number of appeals does not reflect taxpayers' distrust of a system recently plagued with problems:

- Last year, city assessors failed to appraise about 30,000 pieces of commercial property, but they attempted to bring residential property up to 100 percent of market value.

- About 3,500 taxpayers appealed their assessments in 1985. The assessor's office and the Board of Equalization dropped the value of those assessments by about \$414 million.

- A consultant told the city its property records were unreliable and some assessors were "woefully under-

trained."

- City auditors said the Board of Equalization keeps poor records and is inadequately monitored.

"We got a lot more sales information than we had last year and we feel a lot more comfortable with the values we put out," Weber said.

The city's internal auditor has recently completed a sample of about 300 homes to check the accuracy of property records. Weber said initial results show very few significant errors.

City assessors' are reviewing the appeals. If errors are

found, they can reduce, or increase, an assessment.

Property owners can then appeal the assessor's decision to the Board of Equalization.

The board will probably begin meeting the first week of May.

Weber said taxpayers "were relatively calm" while they filed appeals.

A few people even came in to tell officials their homes had been under-assessed.

"We encouraged them to file appeals, but they usually said, 'No thanks.'"

Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly
Publisher

Howard Weaver
Managing Editor

Suzan Nightingale
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Where did appraiser get figures?

I want to voice my frustration concerning the 1986 municipal property assessments. I have several questions deserving answers from the property appraisal division.

- Where did you come up with your figures? Did you guess or what? I can't believe you really believe your own numbers.

- Just what are your folks getting paid to do? Not only do you provide ridiculous property values, but at appeal time, you recommend a real estate agency appraise the property and provide us with written documentation to form a basis for appeal! Why aren't realtors then being paid to assess?

- Why have property values taken such huge leaps considering the stagnant real estate market experienced this year? The municipal appeal form says: "The assessor shall assess property at its full and true value as of January 1 of the assessment year . . . The full and true value is the estimated price that the property would bring in an open market and under the prevailing market conditions in a sale between a willing seller and a willing buyer." I would be elated to sell my home to the municipality for \$20,000 below appraisal. I would get more for it than I ever dreamed possible and the municipality will make (at least on paper) a fat profit.

The 1986 appraisals have made a mockery of the entire system of property valuation. It speaks volumes to realize that some appraisers were the first ones to file appeal forms. At least there is a certain amount of justice to know that they are "sticking it to each other" too.

— Dennis Willman
Eagle River

Anchorage Daily News
Sunday May 11, 1986

Daily News 4/22/86

Few errors found in city tax rolls

By DAVID POSTMAN
Daily News reporter

Anchorage officials say they have found only minor errors in the city tax rolls, errors which have little effect on property tax assessments.

The findings come from a "statistically pure" test done by Internal Auditor Pete Raiskums, which shows property to be undervalued an average of 1.8 percent.

The \$10,000 study contradicts a report by a national appraisal expert who estimated 30 percent of Anchorage's records contained significant errors. The expert said every piece of property should be re-assessed.

The report by an official of the International Association of Assessing Officers relied on interviews with city assessors.

"No one ever checked the records," Raiskums said. "I don't think it's worthwhile to do anything" about a complete re-appraisal.

City officials said the project would cost about \$650,000.

The Anchorage Assembly directed Raiskums to do the study to see if the re-appraisal was necessary.

Assessor Phil Weber said he was pleased the error rate was below 2 percent.

But Weber said he was unsure if city officials would

go ahead with the wholesale re-appraisal, in part because Raiskums's report did not look at commercial property.

Raiskums hired an appraiser to inspect 321 homes. What the appraiser saw was compared to what was recorded on the city tax computer.

He said 83 percent of the records contained at least one error, but the errors were not significant.

When they were corrected and the property revalued by computer, there was a 1.8 percent, or \$1.1 million, increase in valuation of those 321 homes.

If the sample reflects the accuracy of the entire tax roll, it would mean city property is assessed \$92.3 million below what it should be.

Raiskums said he is "95 percent confident" of his findings, meaning the actual error rate could be somewhere between zero and 6.8 percent.

Close to 7,000 property owners appealed their tax assessments this year. But Raiskums said people probably appealed because the city is appraising homes at 100 percent of market value, not because of an appraising error.

State law requires local governments to assess property at 100 percent. But Anchorage began reaching 100 percent just last year with the help of a new computer.

THE
Chugiak - Eagle River

Star



INDEPENDENT WEEKLY

Serving the Fourth Largest and Fastest Growing Community in Alaska

USPS 938 2901

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Office located at Eagle River, Alaska - phone 2721
Second Class Postage Paid at Eagle River, Alaska 99577
POSTMASTER: Send address changes to
THE STAR P.O. Box 77100 Eagle River, Alaska 99577 1002
SUBSCRIPTION RATES
Single Copy Price 50 Cents
Surface Mail Inside Alaska One Year \$15.00 2 Years \$25.00
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for the rest of their school career because we have alternative programs competing for class space. I feel it is time that the District face up to the facts that:

--Alternative programs do cost additional dollars and that translates into providing private education at public expense.

--Basic educational needs should have priority over parental desire for alternative programs.

Lynn B. Schutte

Second floor ok, elevator disliked

To The Editor:

CORRECTION PLEASE! I wish to take you to task for the headline you placed over my "Letter to the Editor" in your April 17th paper. I have no problem with the fact that the library is to be located on the second floor of a building.

My concern is with the fact that a small elevator has been designated as the main access to the library. To me, that means that I am expected to use that elevator when I am arriving or departing the library.

I feel that the stairs should be the main access for the reasons outlined in my previous letter.

Anne R. Mitchell

Tax assessments bring shock wave

To The Editor:

A wave of shock and deep concern was registered by residents of Chugiak and Peters Creek when their "green cards" (tax assessments) were mailed a few weeks ago. A meeting was called by area real estate business people at the Bella Vista in Peters Creek and Phil Weber, head of the Anchorage Municipality Assessor's Office was invited to be present. It was obvious that all of the people present were upset by the inconsistencies of the evaluations for both business and residential properties and voiced their complaints that their budgets could not handle such dramatic increases at a time when there is not a healthy real-estate market and property values are on the decline.

Mr. Weber admitted that there had been mistakes made in the Peters Creek area but also made it clear that he welcomed appeals from those who felt their assessments were in error. However, Mr. Weber stated that in the event that the appeal process not be finalized when taxes come due in June (and it may well not be, with over 3,000 appeals already made), the first one-half of the payment must be paid on the WRONG assessment; otherwise severe penalties will be imposed.

My question is as to the legality of demanding payment on an erroneous assessment. If, indeed, there have been mistakes in entering information on the computers, someone should be held accountable for this gross injustice to our people. If it is LAW that our municipality can tax on unjust assessments and demand payment before a true and legal assessment can be made, then it is imperative that

such law be legislated to make this illegal in order to protect our property owners.

Because Mayor Tony Knowles wants more and more money for our All-America City, let these monies come from honestly appraised land as is dictated by law—that properties be evaluated on a fair market value and not by a contrived mistake.

Gloria Oberg

Army engineers should hire

To The Editor:

Col.

Eng.



City/State/Weather

B

Peters Creek parcels to be reappraised

by Nancy Killoran
Times Writer

The Municipality of Anchorage will immediately reappraise 62 parcels of land in Peters Creek.

Mayor Tony Knowles has directed the municipality's property appraisal division to reappraise the commercial parcels the city feels were "mistakenly appraised" earlier this year.

Municipal officials estimate the new property values will be 30 percent to 50 percent lower than the original appraisals.

As of the close of work Wednesday, the final appeal date for 1986 valuations, the city had received 6,300 appeals, said Assessor Phil Weber. He said some additional appeals would probably arrive in the mail.

Approximately 6 percent of the appeals were from the Peters Creek area.

Last year his office recorded 3,500 appeals. Weber said the increased number of appeals this year is the result of a change in accounting methods.

In 1985 the appraiser's office allowed one appeal case number for a group of parcels, and this year each parcel had to be appealed individually.

The Peters Creek reappraisals will be the only blanket adjustment to be made on 1986 property values in the municipality, said chief fiscal officer Barbara Steckel. Individual adjustments throughout Anchorage will still be made on a case-by-case basis.

Knowles said he directed the reappraisal effort "after consultation with and encouragement from Assemblymen Gerry O'Connor and Fred Dyson" and after more hard data on comparable sales was made available to the property appraisal division.

In mid-March some Peters Creek property owners received the 1986 municipal appraisals increasing the value of their properties by more than 1,000 percent.

Knowles said the reappraisal will take about three weeks. The affected property owners will then receive a new green card with a new valuation

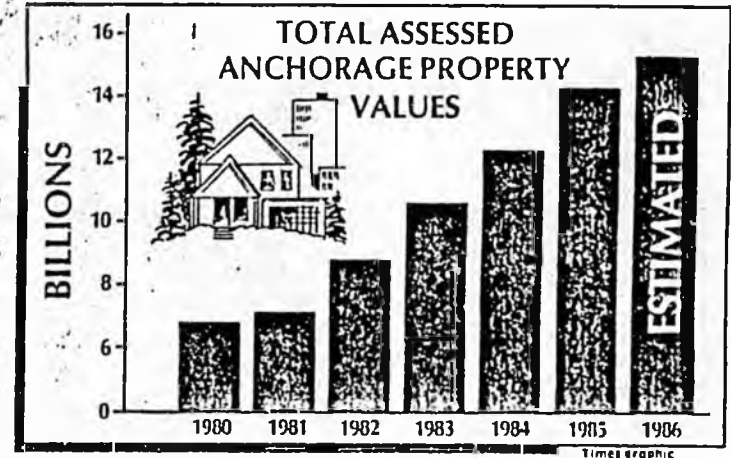
for the parcel. Owners will have an additional 30 days from that time to appeal the new appraisal figure. Property owners will not have to pay taxes based on the mistaken appraisal, only on the new appraised value, he added.

Initial 1986 valuations were based on the few comparison sales available at the time of the appraisal, Steckel said.

"Because much of Peters Creek had been zoned unrestricted, our municipal appraisers had a limited number of similarly zoned sales to use as comparisons," she said.

The 62 parcels to be reappraised are located in five commercially zoned areas, including:

- Intersection of North Birchwood Loop Road and the Glenn Highway.
- Intersection of the Old Glenn Highway and Skyline Drive.
- Fronting the Old Glenn Highway just south of the Bending Birch Drive intersection.
- Just north and south of Old Glenn Highway and Bonanza Drive intersection.



Municipal property assessments are expected to increase this year by a total of about \$1 billion; assessment notices have been sent to property owners and about 6,300 individuals have appealed, according to municipal officials.

the assembly may prescribe procedures, restrictions, and conditions assessing or reassessing business inventories and of remitting refunding taxes. (§ 2 ch 118 SLA 1972; am § 45 ch 53 SLA 1973; § 1 ch 46 SLA 1974)

the inclusion of percentages used in public information
Legislative history reports. — For report on ch. 53. SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Opinions of attorney general. — Valuation of boats and vessels on the basis of registered or certified tonnage rather than full and true value does not constitute application of the full and true value to boats and vessels. 1962 Op. Att'y Gen. No. 18, decided under former, similar law.

NOTES TO DECISIONS

The equal protection clause does not compel the adoption of an iron rule of equal taxation. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

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. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

And it does not forbid differences in tax burdens founded upon substantial and reasonable differences between the objects taxed. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

A borough has discretion to appraise by whatever recognized method of valuation it chooses, so long as there is no fraud or clear adoption of a fundamentally wrong principle of valuation. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

Income from property is not sole standard of value. — Although the income from property may be a legitimate factor to consider in fixing value for tax purposes, it is not the sole standard to apply. *Twentieth Century Inv. Co. v. City of Juneau*, Sup. Ct. Op. No. 42 (File No. 42), 359 P.2d 783 (1961), decided under former, similar law.

Computing reconstruction cost and depreciation of dissimilar buildings. — Where two buildings are dissimilar in size, age, and basic construction, it would be entirely reasonable for the assessor to use different factors in computing

reconstruction cost and depreciation, thus achieve substantial equality and equivalence. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

Differences in construction materials between given structures are obvious distinctions sufficient to warrant the difference in treatment accorded by the assessor, and to nullify the charge that his actions were arbitrary and resulted in a lack of uniformity. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

Assessor is empowered to reduce assessments in later years where the results of disasters have reduced market value. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

The borough assessor had the power to grant earthquake decrements. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

Property was not entitled to an earthquake decrement for tax assessment purposes where there was an absence of evidence indicating that the market value was reduced. *Hoblit v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 636 (File No. 1214), 473 P.2d 630 (1970), decided under former, similar law.

Statutory deadlines are directory. — Statutory deadlines for assessment of taxes, setting of mill levy, and mailing of tax statements should be construed as directory, and a city's failure to meet such statutory deadlines does not automatically invalidate its decisions. *City of Yakutat v. Ryman*, Sup. Ct. Op. No. 2581 (File No. 6033, 6093), 654 P.2d 785 (1982).

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(c) An assessor may examine a person on oath. Upon request, a person shall appear for examination by the assessor. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

Tax assessments as evidence in condemnation proceedings. — A former, similar provision did not furnish the basis for the admissibility of tax assessments as evidence in condemnation proceedings. Given the limited purpose of the act, there

was no indication that the legislature intended to make tax assessments prima facie evidence of value in condemnation proceedings. State v. 45,621 Square Feet of Land, Sup. Ct. Op. No. 641 (File No. 1970-475 P.2d 553 (1970)).

Sec. 29.53.090. Statement. A person who fails to file a statement required by ordinance or who knowingly makes a false affidavit or statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation, is guilty of a misdemeanor. Upon conviction, the person is punishable by a fine of not more than \$500, or by imprisonment for more than 30 days, or by both, together with costs of prosecution. (§ 2 ch 118 SLA 1972)

Sec. 29.53.095. Reevaluation. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly. (§ 2 ch 118 SLA 1972)

Sec. 29.53.100. Assessment roll. (a) The assessor shall prepare an annual assessment roll. The roll contains

- (1) a description of all taxable property;
- (2) the assessed value of all taxable property;
- (3) the names and addresses of persons with property subject to assessment and taxation.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the owner of record as shown in the records of the district recorder, who shall at least monthly provide the assessor a copy of each recorded change of ownership showing the name and mailing address of the owner and the name and mailing address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal owner of record. If the property owner is unknown, the property may be assessed

unknown owner." An assessment is not invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described. (§ 2 ch 118 SLA 1972; am § 1 ch 204 SLA 1976)

NOTES TO DECISIONS

... name of owner does not... A lien of an assessment is valid against the property... error in the name of the owner... property is correctly described... personal liability may be assessed against the true owner of record... Kirbo, 169 F. Supp. 38 (D. Alaska 1958), decided under former, similar... on people, acting through initiative. -- Since a municipality in its legislative capacity, is

prohibited from enacting a limitation on taxes to pay bonds, then the people, acting through the initiative, in their legislative capacity, are similarly precluded. Whitson v. Anchorage, Sup. Ct. Op. No. 2050 (File Nos. 4254, 4267), 608 P.2d 759 (1980). Quoted in City of Yakutat v. Ryman, Sup. Ct. Op. No. 2581 (File Nos. 6033, 6099), 654 P.2d 785 (1982). Stated in Alacom, Inc. v. North Slope Borough, Sup. Ct. Op. No. 2622 (File Nos. 6037, 6090), 659 P.2d 1175 (1983).

... references. -- 71 Am. Jur. 2d State and Local Taxation, §§ 731 to 734. C.J.R. Municipal Corporations, 1981 M.C.J.R. Taxation, § 454 et seq.

Provisions as to approval of expenditures, 91 ALR 1511. Delegating to others matters relating to computation of tax, 107 ALR 1482.

§ 29.53.103. Taxation records. (a) Municipal records dealing with assessment, valuation or taxation may be inspected by the State Assessor or a designee.

(b) If a municipality's assessment and valuation has been done by a private contractor, records concerning the municipality's valuation and assessment shall be made available to the State Assessor or a designee on request. (§ 1 ch 14 SLA 1984)

§ 29.53.105. Errors in taxation procedures. (a) If a municipality receives notice from the State Assessor that major errors have been found in a assessment, valuation or taxation procedures, the municipality shall correct its procedures before the beginning of the next fiscal year or file an appeal under (b) of this section.

(b) A municipality may appeal a notice from the State Assessor that it has made a major error in assessment, valuation or taxation procedures by filing an appeal with the commissioner of community and general affairs within 30 days after receipt of notice of error.

The commissioner, after consulting with the Alaska Association of Municipal Officers, shall render a decision within 60 days after the receipt of a request under (b) of this section. If the commissioner determines that a major error has been made in assessment, valuation or taxation procedures the commissioner shall notify the municipality of

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changes that must be made and the municipality shall correct its procedures before the beginning of the next fiscal year.

(d) If errors in its assessment, valuation or taxation procedures have resulted in a loss of revenue to the state, the municipality shall reimburse the state for the amount of revenues lost. (§ 2 ch 14 SLA 1984)

Sec. 29.53.110. Assessment notice. (a) The assessor shall send every person named in the assessment roll a notice of assessment showing the assessed value of the person's property. On each notice shall be printed a brief summary of the dates when taxes are payable, delinquent and subject to penalty and interest, and the dates when the board of equalization will sit.

(b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

Where in 1974 city made no attempt to comply with statutory requirements regarding assessment of taxes, setting of mill levy, and mailing of tax statements, in that assessment notices and tax statements were not provided and there were no equalization hearings, and where the city did not set the 1974 levy until September 1975, and tax statements were not mailed until October 1975, 15 months

after the statutory deadline, there was substantial compliance with such requirements, and the 1974 tax was invalid. *City of Yakutat v Ryman*, Sup. Ct. Op. No. 2581 (File Nos. 6033, 6099), 654 P.2d 1175 (1982).

Cited in *Alascom, Inc. v. North Star Borough*, Sup. Ct. Op. No. 2622 (File Nos. 6037, 6090), 659 P.2d 1175 (1983).

Sec. 29.53.120. Corrections. (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 correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are not adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board. (§ 2 ch 118 SLA 1972)

Sec. 29.53.130. Appeals. (a) A person whose name appears on the assessment roll or an agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayers' satisfaction.

(b) The appellant shall, within 30 days from the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form which the board may require. Otherwise, the right of appeal ceases unless the board finds that the taxpayer was unable to comply.

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The assessor shall notify appellants by mail of the time and place of their hearing.

The assessor shall prepare for use by the board a summary of assessment data relating to each assessment which is appealed.

A city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (§ 2 ch 118 SLA 1972)

and copy to appellant - 7 days prior to the hearing, the complete file

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Oil and Gas

NOTES TO DECISIONS

... taxpayer may contest valuation. —
... a former, similar provision a
... could contest valuation before a
... of trustees meeting as a board of
... Yakutat & S. Ry. v. City of
... 16 Alaska 18, 227 F.2d 9 (9th
... 1953).

Quoted in Winegardner v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Cited in Alascom, Inc. v. North Slope Borough, Sup. Ct. Op. No. 2622 (File Nos. 6037, 6099), 659 P.2d 1175 (1983).

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Partnership

29.53.135. Board of equalization. The assembly sits as a board of equalization for the purpose of hearing any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of at least that number of members of the assembly over and above the number required for a quorum to transact business. The board is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings as may be adopted by ordinance, including but not limited to quorum and voting requirements. The assembly may by ordinance adopt rules for the membership and conduct of the board. (§ 2 ch 118 SLA 1972)

... functions of attorney general. —
... the borough assembly functions as a
... of equalization or adjustment, it acts
... administrative, not a legislative.
... 1965 Op. Att'y Gen., No. 7, decided
... former, similar law.

When the borough assembly sits as an administrative body, whether as a board of equalization or adjustment, the weighted vote may not be used. 1965 Op. Att'y Gen., No. 7, decided under former, similar law.

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Production, Petroleum,
and Prisoners

NOTES TO DECISIONS

... board of equalization is administrative
... agency within meaning of
... Rule 45. — See Winegardner v.
... Anchorage Area Borough, Sup.
... 1133 (File No. 2086), 534 P.2d

Cited in City of Yakutat v. Ryman, Sup. Ct. Op. No. 2581 (File Nos. 6033, 6099), 654 P.2d 785 (1982).

29.53.140. Hearing. (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in the appellant's absence.

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Harbors, Navigation
and Shipping

is correct
}

- (b) The ~~appellant~~ ^{assessor} bears the burden of proof ^{that the assessment}
- (c) The only grounds for adjustment is proof of unequal, excessive or improper valuation based on facts which are stated in a valid appeal timely filed or proved at the hearing.
- (d) The board shall certify its actions to the assessor within _____ days.
- (e) The assessor shall enter the changes and certify the final assessment roll by June 1.
- (f) An appellant may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

Scope of review. — The superior court will not substitute its judgment for the judgment of those upon whom the law confers the authority and duty to assess and levy taxes. The superior court is concerned with nothing less than fraud or the clear adoption of a fundamentally wrong principle of evaluation. *Twentieth Century Inv. Co. v. City of Juneau*, Sup. Ct. Op. No. 42 (File No. 42), 359 P.2d 783 (1961), decided under former, similar law.

When valuation or assessment violates due process. — The valuation and assessment of property for taxes does not contravene the due process clause of the 14th 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. 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. *Twentieth Century Inv. Co. v. City of Juneau*, Sup. Ct. Op. No. 42 (File No. 42), 359 P.2d 783 (1961), decided under former, similar law.

Broad reading of subsection (c) held unconstitutional. — A broad reading of subsection (c) to implicitly permit the jury to set the valuation of property by finding that the valuation set by the assessor is "excessive" or "improper" is violative of the doctrine of separation of powers, while a more limited reading of subsection (c) is constitutionally permissible. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Subsection (f) delegates to a jury the power previously held exclusively by the borough assembly. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

There is no constitutional right to a trial by jury to determine proper tax assessments. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Proceedings to levy and collect taxes are not suits at common law. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Rights conferred by subsection (f) are not procedural within the meaning of Appellate Rule 45. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Thus, powers reserved by Alaska Const., art. IV, §§ 1 and 15 are not encroached on. — The right to jury review of municipal tax assessments does not encroach upon the judicial power reserved to the courts by Alaska Const., art. IV, §§ 1 and 15. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Subsection (f) does not violate the constitutional principle of separation of powers. *Winegardner v. Greater Anchorage Area Borough*, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Proceeding on appeal is not a new proceeding. — Subsection (f) speaks of an "appeal to the superior court" and gives no indication that this proceeding, though authorized as de novo and by jury

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institutes a new proceeding. Winegardner v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Though review resembles original proceeding. — De novo jury trial does not provide judicial review beyond the limited review associated with a classic appeal; and because under subsection (f) the jury may disregard some of the findings of a board of assessment without regard to the prior proceedings, the review resembles an appeal proceeding. Winegardner v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Right to fresh assessment of taxes on appeal. — Subsection (f) creates a taxpayer's right to have the judgment of a jury substituted for that of the borough assembly sitting as its own board of assessment. The right, however, is not to have a fresh assessment of taxes of the property. Winegardner v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Subsection (f) does not purport to authorize judicial formulation of general tax law. It asks the courts to perform, with the aid of a jury, only the traditionally judicial task in tax cases of determining in particular instances whether policy to be followed in the assessment of taxes has been accurately applied. Winegardner v. Greater Anchorage Area Borough, Sup.

Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Contention that board cannot be administrative agency because its decisions are subject to judicial review under subsection (f) held without merit. — See Winegardner v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1133 (File No. 2086), 534 P.2d 541 (1975).

Where in 1974 city made no attempt to comply with statutory requirements regarding assessment of taxes, setting of mill levy, and mailing of tax statements, in that assessment notices and tax statements were not provided and there were no equalization hearings, and where the city did not set the 1974 levy until September 1975, and tax statements were not mailed until October 1975, 15 months after the statutory deadline, there was no substantial compliance with such requirements, and the 1974 tax was invalid. City of Yakutat v. Ryman, Sup. Ct. Op. No. 2581 (File Nos. 6033, 6099), 654 P.2d 785 (1982).

Stated in State v. Lundgren Pac. Constr. Co., Sup. Ct. Op. No. 1980 (File No. 3888), 603 P.2d 889 (1979).

Cited in Alascom, Inc. v. North Slope Borough, Sup. Ct. Op. No. 2622 (File Nos. 6037, 6090), 659 P.2d 1175 (1983); Board of Equalization v. Alaska Native Bhd. & Sisterhood, Camp No. 14, Sup. Ct. Op. No. 2655 (File Nos. 6453, 6492, 6565, 6605), 662 P.2d 437 (1983).

Sec. 29.53.150. Supplementary assessment rolls. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the regular roll. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

Omissions from assessment roll do not invalidate all taxes. — The omission of property from an assessment roll, through error of judgment by assessor, will not invalidate all taxes, thus putting an end to the operation of government. Valentine v. City of Anchorage, 20 P.2d 904 (9th Cir. 1929), followed under former, similar law.

Language requiring assessor to "proceed in the manner in which he would advise taxpayer of his tax liability" and procedures for review of as-

essment rather than time as of which a supplemental assessment roll must be prepared. Alascom, Inc. v. North Slope Borough, Sup. Ct. Op. No. 2622 (File Nos. 6037, 6090), 659 P.2d 1175 (1983).

Effect of AS 29.53.200. — AS 29.53.200, concerning the validity of certified assessment and tax rolls, is designed to prevent wholesale invalidation of a year's taxes because of errors or omissions affecting only one taxpayer, and not to render irrelevant the requirement of a supplemental roll. Alascom, Inc. v. North Slope Borough, Sup. Ct. Op. No.

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30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing. (§ 12 ch 74 SLA 1985)

Sec. 29.45.180. Corrections. (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 correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board of equalization. (§ 12 ch 74 SLA 1985)

Sec. 29.45.190. Appeal. (a) A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(b) The appellant shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form that the board of equalization may require. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.

(c) The assessor shall notify an appellant by mail of the time and place of hearing.

(d) The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.

(e) A city in a borough may appeal an assessment to the borough board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (§ 12 ch 74 SLA 1985)

Sec. 29.45.200. Board of equalization. (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. An appointed board may be composed of not less than three persons, who may be members of the governing body, municipal residents, or a combination of members of the governing body and residents. The governing body shall by ordinance establish the qualifications for membership.

(b) The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure. The board may alter an assessment of a lot only pursuant to an appeal filed as to the particular lot.

Sec. 29.45.100. No limitations on taxes to pay bonds. The limitations provided for in AS 29.45.080 — 29.45.090 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. (§ 12 ch 74 SLA 1985)

Sec. 29.45.103. Taxation records. (a) Municipal records dealing with assessment, valuation or taxation may be inspected by the State Assessor or a designee.

(b) If a municipality's assessment and valuation has been done by a private contractor, records concerning the municipality's valuation and assessment shall be made available to the State Assessor or a designee on request. (§ 12 ch 74 SLA 1985)

Sec. 29.45.105. Error in taxation procedures. (a) If a municipality receives a notice from the State Assessor that major errors have been found in its assessment, valuation or taxation procedures, the municipality shall correct its procedures before the beginning of the next fiscal year or file an appeal under (b) of this section.

(b) A municipality may appeal a notice from the State Assessor that it has made a major error in assessment, valuation or taxation procedures by filing an appeal with the commissioner within 30 days after receipt of notice of error.

(c) The commissioner, after consulting with the Alaska Association of Assessing Officers, shall render a decision within 60 days after the receipt of a request under (b) of this section. If the commissioner determines that a major error has been made in assessment, valuation or taxation procedures the commissioner shall notify the municipality of changes that must be made and the municipality shall correct its procedures before the beginning of the next fiscal year.

(d) If errors in its assessment, valuation or taxation procedures have resulted in a loss of revenue to the state, the municipality shall reimburse the state for the amount of revenues lost. (§ 12 ch 74 SLA 1985)

Sec. 29.45.110. Full and true value. (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 29.45.060, 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.

(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the governing body.

(c) In the case of cessation of business during the tax year, the municipality may provide for reassessment of business inventories using the average monthly method of assessment for the tax year rather than the value existing on January 1 of the tax year, and for reduction and refund of taxes. In enacting an ordinance authorized by this section, the municipality may prescribe procedures, restrictions, and conditions of assessing or reassessing business inventories and of remitting or refunding taxes. (§ 12 ch 74 SLA 1985)

Sec. 29.45.120. Returns. (a) The municipality may require each person having ownership or control of or an interest in property to submit a return in the form prescribed by the assessor, based on property values existing on January 1, except as otherwise provided in this chapter.

(b) The assessor may, by written notice, require a person to provide additional information within 30 days. (§ 12 ch 74 SLA 1985)

Sec. 29.45.130. Independent investigation. (a) The assessor is not bound to accept a return as correct. The assessor may make an independent investigation of property returned or of taxable property on which no return has been filed. In either case, the assessor may make the assessor's own valuation of the taxable property and this valuation is prima facie evidence of the value of the property.

(b) For investigation, the assessor or the assessor's agent may enter a premise during reasonable hours and may examine property on the premise. The assessor or the assessor's agent may examine all property records involved. A person shall, on request, furnish to the assessor or the assessor's agent every facility and assistance for the investigation. The assessor may seek a court order to compel entry and production of records needed for assessment purposes.

(c) An assessor may examine a person on oath. On request, the person shall submit to examination at a reasonable time and place selected by the assessor. (§ 12 ch 74 SLA 1985)

Alaska MUNICIPAL League



TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ALASKA MUNICIPAL LEAGUE
OPPOSING HOUSE BILL 37 AND SENATE BILL 77
AND URGING THE LEGISLATURE TO RETAIN THE PRESENT
BURDEN OF PROOF IN REAL PROPERTY ASSESSMENT PROCEDURE.

WHEREAS, in judicial proceedings, the burden of proof is on the person who petitions for relief or files the complaint, and

WHEREAS, the same system is used in most, if not all, jurisdictions that levy property taxes, and

WHEREAS, this system has proved to be a fair and adequate means of dealing with challenges to assessments of real property, and

WHEREAS, the judicial system has dealt with appeals to court of assessments and assessments procedures and has approved the burden of proof being places on the property owner to show inequity and has recognized the appropriateness of such public policy, and

WHEREAS, shifting the burden of proof to the municipality will induce many property owners to file appeals where there is no basis for an appeal as the property owner has no burden to show anything and nothing to lose, and

WHEREAS, the increase in frivolous appeals will unnecessarily increase the cost of assessing procedures and could overwhelm Boards of Equalization, and

WHEREAS, the statutory bases for an adjustment of an assessment (unequal, excessive, improper, or under evaluation) are not elements that the assessor would ever prove in an hearing; and

WHEREAS, if the burden of proof in assessment appeals is shifted to the assessor, a persuasive argument can be made that a similar shift should be made for the state assessment of oil and gas properties and for numerous other appeals of state administrative decisions;

Municipality of Anchorage

MEMORANDUM

DATE: February 2, 1987

TO: Barbara Steckel, Chief Fiscal Officer

FROM: Phil Weber, Municipal Assessor *Phil Weber*

SUBJECT: Appeal Information and Statistics

This memorandum and attachments contain information to be provided to Representatives Collins and Zawacki as a result of the hearing on HB 37 held January 28, 1987.

Attachment A contains appeal statistics for 1986. Unfortunately, statistics for 1985 in this detail are not available because the CAMA Appeal Tracking and Information Module was not installed in 1985. The data is divided into two parts. The first part is for the period of April 16, 1986 through October 24, 1986. This portion shows the results of the administrative review process. Board of Equalization (BOE) decisions and Pre-Board of Equalization (PRE-BOE) resolutions were combined as a single statistic during this time frame. The second part of the data is for the period October 25, 1986 through January 26, 1987. Administrative review data is not shown since the administrative review portion of the appeal process ended August 15, 1986. Beginning October 25, 1986, the BOE and PRE-EJE data were accounted for separately.

I believe the format for the data is self explanatory; however, definitions of "No Change", "Increase" and "Decrease" are found as the second page to Attachment A.

Attachment B is a summary of the appeal process used by the Municipality of Anchorage. I have taken the Appeal Process Summary from the package prepared last week and expanded it to provide some additional information in order to clarify the process.

Attachment C is a typical residential appeal packet prepared by the staff for presentation to the BOE. Hand written notes have been added to aid the reader in understanding some of the information provided. The example is scheduled for hearing on February 11, 1987.

Attachment D is a typical commercial appeal packet prepared by the Appraisal staff for presentation to the BOE. It contains two sections, one for the land value and one for the building value. An appeal involving only vacant land would have only the land portion of the packet prepared. As with the residential appeal in Attachment C, notes have been added for explanation purposes. This appeal is scheduled to be heard by the BOE February 19, 1987.

If additional questions exist with respect to the information provided, please call me at 264-6595 or 264-6697.

ATTACHMENT A

MUNICIPALITY OF ANCHORAGE
 APPEAL DATA AS OF JAN 26, 1987

DATA FROM APRIL 16, 1986 TO OCTOBER 24, 1986

	NR APPEALS	ORIGINAL VALUE	FINAL VALUE	TOTAL (INCREASE) OR DECREASE
ADMIN REVIEW NO CHANGE	780	\$140,292,300	\$140,292,300	\$0
ADMIN REVIEW DECREASE	5425	\$1,700,215,500	\$1,376,556,000	\$323,659,500
BOE/PRE-BOE NO CHANGE	198	\$30,532,900	\$30,532,900	\$0
BOE/PRE-BOE DECREASE	251	\$19,453,300	\$15,740,100	\$3,713,200

DATA FROM OCTOBER 25, 1986 TO JANUARY 26, 1987

BOE NO CHANGE	226	\$78,110,100	\$78,110,100	\$0
BOE INCREASE	26	\$4,973,800	\$5,484,700	(\$510,900)
BOE DECREASE	289	\$80,516,300	\$66,301,300	\$14,752,500
PRE-BOE NO CHANGE	78	\$30,276,300	\$30,276,300	\$0
PRE-BOE INCREASE	3	\$351,000	\$507,500	(\$156,500)
PRE-BOE DECREASE	417	\$122,477,200	\$93,434,200	\$29,043,000

TOTALS FOR APRIL 16, 1986 TO JANUARY 26, 1987

	7693	\$2,207,198,700	\$1,837,235,400	\$370,500,800
--	------	-----------------	-----------------	---------------

APPEALS REMAINING TO BE
 HEARD BY THE BOARD OF
 EQUALIZATION

307

THESE ARE SCHEDULED FROM JANUARY 28, 1987 THROUGH
 FEBRUARY 28, 1987 AT THREE BOARD OF EQUALIZATION
 MEETINGS PER WEEK.

DEFINITION OF TERMS

"No Change" means that the original appealed assessed value was maintained and either the property owner accepted the explanation provided as a result of the administrative review process or the Board of Equalization denied the appeal after hearing the case of both the staff and the property owner.

"Increase" means that the property owner rejected the original administrative review decision and requested a BOE hearing. As a result of gathering information for the case presentation, the Appraisal staff found additional information on the property which would justify an increase in the assessed value. The case was heard by the BOE and the recommendation was upheld or the property owner agreed to the increase before the BOE hearing.

"Decrease" means that either the appraisal staff or the BOE found justification in the information submitted by the property owner to warrant a decrease in the assessed valuation.

APPEAL PROCESS

AS 29.45 places the burden of proof on the property owner when appealing an assessed value. This is not to prevent the submission of legitimate appeals. Rather it is designed to prevent non substantive appeals from being submitted.

The period in which an owner can appeal an assessed value is limited to the first 30 days after assessment notices are mailed. Appeals submitted after that time will not be acted upon unless the Board of Equalization determines that the property owner was unable to meet the filing deadline. The purpose of this is to allow the appeals to be resolved and then allow the appraisal staff to begin gathering and analyzing data for the next year's assessment.

Property owners can provide a lot of assistance to the appraisal staff when filing an appeal by providing as much information as possible as to why they believe the property assessment is in error. The more information that is made available the better chance that the appeal can be resolved early in the process. Information which is valuable includes comparable sales in the area of the appealed property, data base errors, detriments to the property such as access, traffic, incomplete structure, lack of sewer or water, drainage or septic problems, etc.

The appeal process occurs in two steps which are discussed below.

Administrative Review

The filing of an appeal begins the appeal process. A single form is used to simplify the filing procedures for the owner. It also provides a brief history of the appeal. Appeals, which may be submitted in person or by mail, are filed with the Municipal Clerk who logs them in, assigns an appeal number and forwards them to the Appraisal staff to begin the Administrative Review.

The administrative review is the informal portion of the process. The majority of the appeals filed are resolved during the administrative review. The appraisal staff researches the reasons provided by the property owner to determine if the assessed value will be affected. Time permitting, a physical review of the property is accomplished to verify the data base for the property. Once the research is completed, a decision on the value is made and mailed by the Appraisal staff to the owner who then has an additional 30 days in which to accept or reject the decision. If no response is received from the owner within this 30 days, it is assumed that the owner agrees with the decision. When the owner does not agree with the decision, the bottom portion of the Administrative Review and Appeal Form is signed by the owner and resubmitted to the Municipal Clerk. A formal appeal has now been filed.

The Formal Appeal

After receipt of a request for formal hearing, the Municipal Clerk forwards the appeal to the Appraisal staff. At this time preparations begin for presentation to the BOE.

The preparations may involve another physical look at the property, additional discussions with the property owner to obtain additional information as to why

the individual believes the property is over assessed, and more in depth re-search of Municipal data.

If additional information is provided or found which warrants a reduction in the assessed value, the property owner is contacted by telephone to discuss the new value. If the property owner agrees to the new value, a PRE-BOE Adjustment Form is completed. The form documents the date of the conversation with the owner and the decision reached. A copy of the form is mailed by the Appraisal staff to the owner. The form, showing the decision and agreement, is then presented to the BOE for concurrence under a "consent agenda" format. The property owner has the option of retracting the agreement anytime up to the approval of the agreement by the BOE. If the owner decides to retract the agreement, the appeal is prepared for a formal hearing before the BOE. In 1986 the retraction option was exercised in about six out of 680 PRE-BOE agreements.

If the owner does not agree to the value decision or if no evidence was found to warrant a value reduction, the appeal is prepared for BOE hearing. AS 29.45 requires a packet, prepared by the Assessor, be presented to the BOE. The contents of the packet are not specified in the statute. Normally, the packet contains a brief summary about the property, comparable sales used in the valuation of the property, cost or income information and any information submitted by the appellant with the original filing.

A group of 20-25 appeal packets are given to the Municipal Clerk at the same time by the Appraisal staff with a recommended date for the BOE hearing. The Clerk prints the needed number of copies, mails a copy of each packet to the respective owners about two weeks prior to the scheduled hearing date. This provides the owner the opportunity to analyze the appeal packet information and prepare a rebuttal to the staff's position. Any rebuttal or additional information to be presented by the owner is not made available to the staff for analysis until the owner begins testimony at the hearing. As much as possible, like properties of the same owner are scheduled at the same time.

At any time during the process the owner may elect to withdraw the appeal and accept the latest value decision of the staff, be that decision an increase, decrease or no change in the value.

At the BOE hearing the owner and appraisal staff are placed under oath. The owner testifies first. The BOE members will normally question the owner regarding the testimony or on other matters regarding the property.

The Appraisal staff then presents its testimony which is usually in the form of additional details about the summary information in the appeal packet. The BOE members will question the staff about the applicability and validity of sales used for comparables, what considerations were given to any influence factors and to what degree, depreciation and functional utility considerations, bench marks used as a basis for land valuations, Municipal ordinances regarding zoning, construction or septic issues, rationale for capitalization, expense and rental data used in income approaches, policy regarding assessment procedures, and other issues which may have been presented by the owner during his/her testimony.

The owner is then given an opportunity to rebut comments made by the Appraisal staff during its testimony and to ask questions, through the BOE Chair, of the

Appraisal staff. The Appraisal staff is not provided an opportunity for further testimony unless questions are asked by the owner or the BOE members.

After the final rebuttal by the owner, the hearing is closed, the BOE discusses the testimony and reaches a decision regarding the appeal. After the BOE decision, the owner has the opportunity to request, in writing, that the hearing be reopened by the BOE. To reopen an appeal hearing requires a majority vote by the BOE. The property owner, as well as the Municipality, also has the option to appeal the BOE decision to superior court.

210-501-06

1148
Appeal Number

Parcel ID

ATTACHMENT C

RESIDENTIAL APPEAL RESPONSE

Materials attached or enclosed:

- Administrative Review and Appeal Form and attachments if any.
- Comp Sheet. (Sheet showing sales of comparable properties.)
- Inventory Contents Sheet. Not used. (See comp sheet.)
- Map of subject.
- New photo of subject.
- Not used. (See ICS sheet.)

Additional materials available at Board of Equalization hearing:

- Property Record Card (including old photos if any, and drawing).
- Map or maps showing location of comps (ie., sales of comparable properties).
- Valuation Register (showing assessed value of every parcel.)

Inventory verified:

- No. Inventory not an issue.
- Yes:
 - By interior inspection.
 - By exterior inspection:
 - Not re-measured.
 - Re-Measured.
 - By conversation with appellant or representative.

Comments regarding inventory: GRADE ADJ. B → Ct, CORRECTED
STYLE; DURING ADMIN. REVIEW;

Assessor's recommendation to Board of Equalization:

Land: No change from Administrative Review Decision: \$ 38,300
 Change to: \$ _____

Improvements: No change from Administrative Review Decision: \$ 104,000
 Change to: \$ _____

Total Value Recommended: \$ 142,300

Appraisal method used: Market (CAMA); Cost (CAMA);
 Income; Specific sales comparisons.
 (In all cases market value of land is used.)

Reasons for recommendation: List of Comparable Properties
Submitted by Appellant Supports CAU of
\$142,300 / Sale in Area Supports Value

Adrian Evans
 Prepared by (Appraiser)

12-18-87
 Date

Don Gordon
 Reviewed by

5-325

26 C-1

1-9-86

pg C-2

THE APPEALED PROPERTY

STREET ADDRESS IF KNOWN AND IN THE SYSTEM PAGE NO. 41

10/19/86

GAS460-01		ANCHORAGE AK. RESIDENTIAL REVIEW				
SUBJECT		COMP 1	COMP 2	COMP 3	COMP 4	COMP 5
*****		*****	*****	*****	*****	*****
IID	050-501-06-000	050-531-12-000	081-011-05-000	050-611-02-000		
PROP ADDR	40505010600085	0505311200084	0810110500084	0506110200084		
NO/NOGP	19H007005	19H007005	19H007005	19H007005		
ZONING	R6	R6	R10	R6		
SIZE (ACRES)	0.62 ^A	0.68	1.00	3.00		
DHELLING						
LIVING UNIT	1	1	1	1		
STORY HEIGHT	1.0	1.0	1.5	1.5		
STYLE	OTHER HOOD	OTHER HOOD	OTHER HOOD	OTHER HOOD		
EXT HALLS						
YR BCT/REM	1982/82	1985/85	1984/84	1983/83		
ROOKS	03/0/06	02/0/05	03/0/07	03/0/06		
BA: F, HF, AD, TOT	2,0,0/08	1,1,0/07	2,0,0/08	2,0,0/08		
HEATING	RS/G/HH	BS/G/HH	BS/G/HH	BS/G/HH		
PHYS/INT COND AVERAGE		AVERAGE	AVERAGE	AVERAGE		
SF LIV AREA	1,364	1,244	1,416	1,392		
1ST FLOOR	1,364	1,244	1,056	1,080		
2ND FLOOR	0	0	0	0		
3RD FLOOR	0	0	0	0		
1/2 STORY	0	0	480	0		
ATTIC AREA	0	0	0	624		
TOT BSHT SF	648	1,092	960	0		
FIN BSHT SF	0	0	0	0		
RECROOM	0	0	0	0		
GARAGE	002			DFG 520/		
CARPRT	0	0	0	0		
FP:SK,OP/FS/EZ	0,0/1/0	0,0/0/0	0,0/1/1	0,0/1/0		
OPEN PORCH	112	0	0	0		
ENCL PORCH	0	0	0	0		
HOOD DECK	369	52	310	814		
COST DATA						
BASE COST	71,800	79,500	92,500	92,300		
C&D						
CD/CDU REPLACEMENT	AV	C AV	B AV	(B) (AV)		
RCHD COST NEW	98,200	79,500	116,600	116,300		
PCT GOOD ← DEPRECIATION FACTOR	1.00	1.00	1.00	1.00		
RCHLD ← REW LESS DEPRECIATION	98,200	79,500	116,600	116,300		
TOT OBY	0	0	3,800	13,230		
GROSS BLDG	0	0	0	0		
TOT LND	38,300	21,400	38,200	63,200		
TOT IMP	98,200	79,500	120,400	129,530		
TOT CST	136,500	100,900	158,600	192,730		
VALUATION						
SL DATE—CLOSING DATE		09/85	10/84	09/84		
SALE PR		125,000	151,000	177,000		
HRA EST	141,651 (1)	122,795	163,304	174,601		
ADJ SALE		143,856 (2)	129,346 (3)	(4) 144,050		
INDEX		63	66	86		
INDICATOR						
MGTD ESTIMATE	138,667 (5)					
MARKET ESTIMATE	141,400					
PREVIOUS VALUE	138,700					
FIELD CONTROL	2					
PRWR YEAR						

Neighborhood code used for market modeling purposes

System looks for homes which have similar characteristics to the subject.

IN THESE CASES HEATING IS BASEBOARD GAS FIRED HOT WATER.

GRADE WILL RANGE FROM E (VERY POOR) TO A AA+ (CUSTOM, HIGH QUALITY HOME)

GRADE REFLECTS OVERALL CONDITION OF HOME

CDU (CONDITION/DESIRABILITY/UTILITY) ALSO CALLED "MARKETABILITY" THIS IS USED TO REFLECT ECONOMIC OBSOLESCENCE, POOR UTILITY, ETC.

COST IS USED IF PROPERTY CANNOT BE PROPERLY MARKETED. COST & MARKET SHOULD "IDEALLY" BE CLOSE. DECLINING MARKET TRENDS TO CAUSE A DIFFERENCE BETWEEN THE TWO

THE ADJUSTED SALE PRICE IS DONE BY THE SYSTEM TO ACCOUNT FOR THE VARIOUS DIFFERENCES IN THE PROPERTIES TO THE SUBJECT PLUS THE ADJUSTMENT FOR SALE DATE. TIME ADJUSTMENT IS A FUNCTION OF MARKET TRENDS.

COMPUTED BY LOOKING AT VALUES (1) THRU (5). THROW OUT HI & LOW AND AVERAGE THE REMAINING THREE

(1) 141,651
 (2) 143,856
 (3) 129,346
 (4) 144,050
 (5) 138,667
 424,174 ÷ 3 = 141,391
 ROUND TO 141,400

INDEX NUMBER TELLS US HOW GOOD THE COMPARABLE SALE IS. THE LOWER THE BETTER. BUT SINCE FEW HOMES ARE EXACTLY LIKE AN INDEX OF 50-90 IS A GOOD COMP.

KITCHEN SINK, TOT - TOTAL FIXTURES (FULL BATH NORMALLY HAS THREE TUB SINKS)

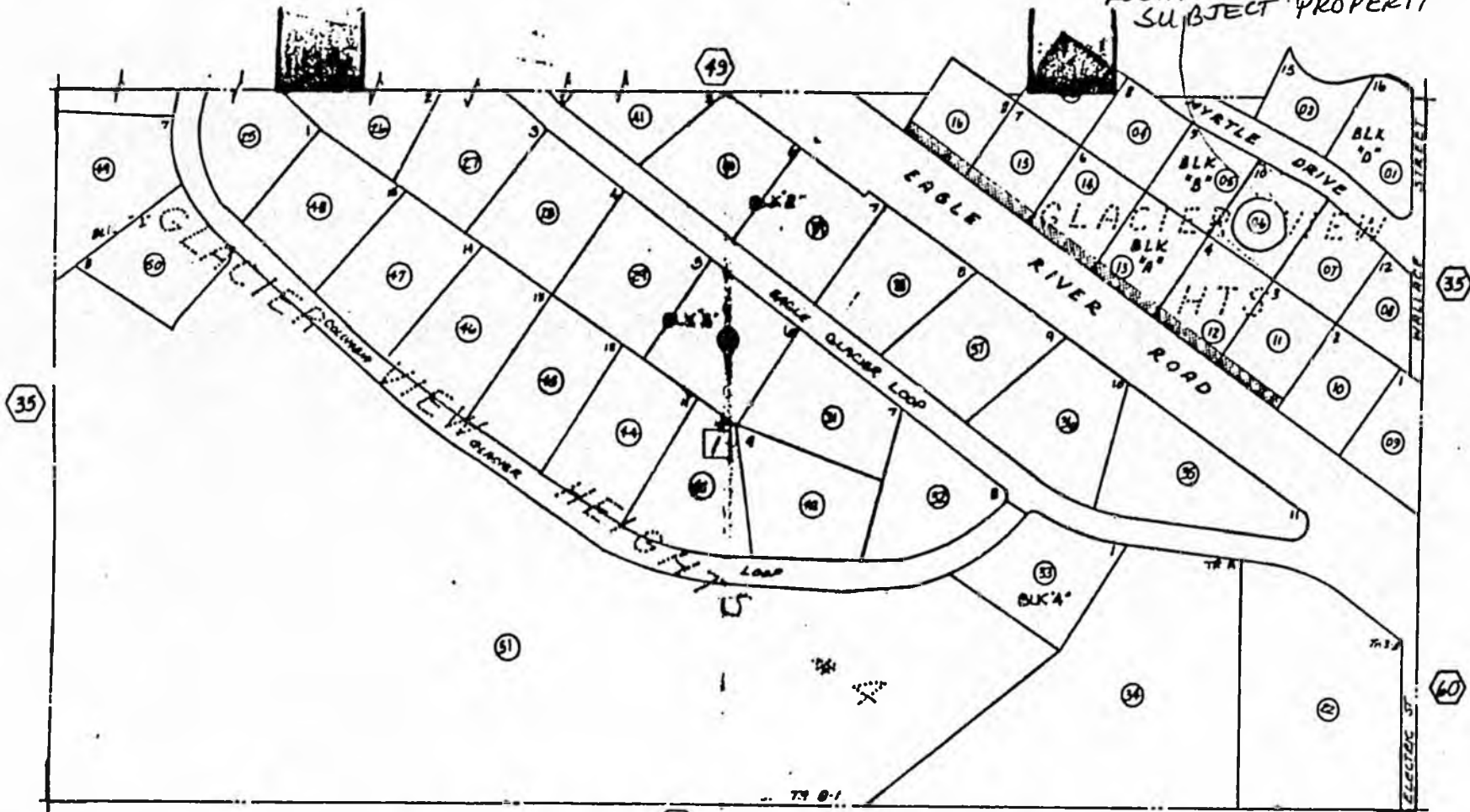
RESIDENTIAL

N 1/2, SE 1/4, SEC. 16. T14N R.1W. S.M.

Tax Area Code

050-50

MAP TO SHOW
LOCATION OF
SUBJECT PROPERTY



051-501-20 of 24 NOW 050-501-48 of 51 (05-185) 8-1-85
 050-501-18, 19, 21 NOW 050-491-49, 58, 050-501-28, 41 (04-77) 6-8-84
 050-501-20 NOW 050-501-21, 22 (79-172) 10-19-79
 050-501-17 NOW 050-501-18, 19, 20 (77-308) 1-19-78
 OFC-501-11 T14N 16 N1/2W 16 N1/2W TAKE 12-31-79

Adjoining Page No. Assessment Period No.

Adjoining Tax Book No. Assessment Block No.

Assessor's Map Bk. 050 - Pg. 50

26 C-3

26 C-3

ADMINISTRATIVE REVIEW AND APPEAL FORM

BA 7-24-86

Complete the form down to the heavy line. Remove the bottom copy, for your records and deliver the form to 632 W 6th, 4th Floor, or mail to: Municipal Clerk, Box 196650, Anchorage, Ak 99519-6650, no later than the **Appeal must be filed by** date indicated on your *Notice of Value*. If you deliver them in person the bottom copy will be time-date stamped for you. The assessor's office will review your appeal and mail you a copy of the decision via certified letter. Upon receipt please complete block 5 and return the copy to the Municipal Clerk in the envelope provided.

Appeal # 01148

Please see back of form for further guidelines.

1) I request a review of the value shown in item 2 below for assessor's Book 050 Page 501 Lot 06
 Property address (or legal description, mile, etc.): Glacier View Hqts. Blk B Lot 10
 Owner's name (as listed on valuation roll) Burnell, Stuart M & Pamela P
 Owner's Mailing address: P.O. Box 772841 Steamboat Springs, Colorado 80477
 Day phone: (303) 879-2281 Evening phone (303) 879-6294

2) Assessor's Value (from Notice of Value)	Land 38,300	Bldg. 109,500	Total 147,800
Owner's estimate of value	28,300	93,381	121,681

Owner's reason for estimate of value (including inventory corrections, sales of comparable properties, and property income statements, if appropriate). I protest the Assessor's valuation based on the attached Market Analysis.

*THE APPEAL FORM WITH
"I DO NOT ACCEPT" CHECKED*

See attached

3) I hereby affirm that the foregoing information is true and correct and I have read and understand the guidelines on the back.

Stuart M Burnell 3/25/86 Print name (if different from item #1)
Signature of owner or authorized agent Date signed Phone (if different from item #1 above)

Address (if different from item #1 above) Shaded area for assessor's use only Phone (if different from item #1 above)

4) Assessor's Decision	From	Land <u>38,300</u>	Bldg. <u>109,500</u>	Total <u>147,800</u>
	To	<u>38,300</u>	<u>104,000</u>	<u>142,300</u>

Assessor's reason for decision DATA CORRECTIONS

See attached

[Signature] 3/25/86 7-10-86
Date received Decision made by Date Approved by Date Date mailed

5) Appellant's Response: If the copy of this form received via certified mail is not returned within 30 days, your rights to appeal will be terminated in accordance with Alaska Statutes.

ACCEPT the Assessor's decision in Block 4 above and hereby withdraw my appeal. *REC'D*
 DO NOT ACCEPT the Assessor's decision and desire to have my appeal presented to the Board of Equalization.

[Signature] 3/25/86 Print name
Signature of owner or authorized agent Date signed Print name

Board of Equalization's Decision	Land	Bldg.	Total
----------------------------------	------	-------	-------

PC C-5

ADMINISTRATIVE REVIEW AND APPEAL FORM

Complete the form down to the heavy line. Remove the bottom copy for your records and deliver the form to 632 W. 6th, 4th Floor, or mail to: Municipal Clerk, Box 196650, Anchorage, Ak 99519-6650, no later than the **Appeal must be filed by** date indicated on your *Notice of Value*. If you deliver them in person the bottom copy will be time-date stamped for you. The assessor's office will review your appeal and mail you a copy of the decision via certified letter. Upon receipt please complete block 5 and return the copy to the Municipal Clerk in the envelope provided.

Please see back of form for further guidelines.

Appeal # C 11410

1) I request a review of the value shown in item 2 below for assessor's Book 050 Page 501 Lot 06
 Property address (or legal description, mile, etc.): Glacier View Hqts. B1k B Lot 10
 Owner's name (as listed on valuation roll) Burnell, Stuart M & Pamela P
 Owner's Mailing address: P.O. Box 772841 Steamboat Springs, Colorado 80477
 Day phone: (303) 879-2281 Evening phone (303) 879-6294

	Land	Bldg.	Total
2) Assessor's Value (from Notice of Value)	38,300	109,500	147,800
Owner's estimate of value	28,300	93,381	121,681

Owner's reason for estimate of value (including inventory corrections, sales of comparable properties, and property income statements, if appropriate). I protest the Assessor's valuation based on the attached Market Analysis.

See attached

3) I hereby affirm that the foregoing information is true and correct and I have read and understand the guidelines on the back.

Stuart M Burnell 3/25/86 Print name (if different from item #1)
Signature of owner or authorized agent Date signed Address (if different from item #1 above) Phones (if different from item #1 above)

Shaded area for assessor's use only

	From	To	Total
4) Assessor's Decision	Land <u>38,300</u>	Bldg <u>109,500</u>	Total <u>147,800</u>
	<u>38,300</u>	<u>104,000</u>	<u>142,300</u>

Assessor's reason for decision DATA CORRECTIONS

See attached

Alan Evers 7/8/86 Date received Date mailed
Date received Date Approved by Date Date mailed

5) Appellant's Response: If the copy of this form received via certified mail is not returned within 30 days, your rights to appeal will be terminated in accordance with Alaska Statutes.

- I ACCEPT the Assessor's decision in Block 4 above and hereby withdraw my appeal.
- I DO NOT ACCEPT the Assessor's decision and desire to have my appeal presented to the Board of Equalization.

Signature of owner or authorized agent Date signed Print name

Board of Equalization's Decision	Land	Bldg.	Total

Date received Date Heard Certified (Chairman or Clerk of Board) Date Date mailed

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PGC-6