

Introduced by: Mayor
Date: Sept. 17, 1985
Hearing: ~~Oct. 29~~, 1985
Vote: Unanimous
Action: Enacted

KENAI PENINSULA BOROUGH
ORDINANCE 85-70 (SUBSTITUTE)

SETTING PROCEDURES FOR APPEAL OF PROPERTY TAX EXEMPTION DETERMINATIONS.

WHEREAS, there exists a need for a procedure by which a taxpayer may appeal Borough Assessing Department determinations that property is not exempt from property taxes; and

WHEREAS, an appeal to the Borough Assessor from such a determination appears to be the most appropriate avenue to fill this need;

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That Chapter 5.12 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new section 5.12.055 to read as follows:

5.12.055 Exemptions--Determination--Appeal upon denial of exemption. A. In establishing the assessment rolls the Borough Assessing Department shall determine whether property is exempt from taxation under Federal or State law or Borough ordinance. The Assessing Department may consider or request such information as is necessary from the owner of the property as to make the determination as to exemption.

B. A person who receives a notice of assessment who believes that the property is exempt from taxation under the laws of the United States or State of Alaska or Borough ordinances and upon whose property the Borough has not granted an exemption shall within thirty (30) days after the date of mailing of a notice of assessment by the Borough, submit to the assessor a notice of appeal in the form of a letter or petition briefly stating the grounds or basis upon which the exemption is claimed. The appeal shall be heard by the Borough assessor or his designees.

C. The assessor shall notify the appellant by mail of the time and place of the hearing of the appeal at least ten (10) days prior to the hearing date.

D. Hearings shall be informal, with the appellant and staff presenting their case to the Borough assessor. The appellant should present information support-

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ing the claim of exemption. The Borough assessing staff involved in the assessment or appraisal of the property shall submit to the assessor all information pertaining to the case and a brief statement as to why an exemption was not granted. The appellant shall have the right to be present at the hearing and to present testimony or argument in support of the grant of an exemption and to examine the Borough assessing staff about their decision and their reasons for it. If the appellant does not request or wish to be present at the hearing the matter may be considered upon the information submitted by the appellant and the information submitted by the assessing staff. The Borough assessor may request the presence of the Borough attorney at the hearings for consultation or may consult the Borough attorney regarding the exemption claim.

E. The Borough assessor shall make a written determination as to whether the appeal is granted and an exemption given within seven (7) days after the designated hearing date. The determination shall state the factual findings and legal conclusions of the Borough Assessor in making the determination. A copy of the determination shall be sent to the appellant. Should the exemption be granted in whole or in part, the assessor shall cause the assessment roll to be corrected to reflect the decision.

F. A determination of the Borough assessor as to whether property is taxable under law may be appealed directly to the superior court of the State of Alaska. Such an appeal must be filed within thirty (30) days of the date of the Assessor's written determination.

G. All appeals to the assessor of exemption decisions under this section must be completed prior to the time established for certification of the assessment rolls and/or establishment of the tax levy for the borough.

H. An appellant shall pay Borough taxes on a parcel as such taxes come due while an appeal with respect to the taxability of the property is pending. If a tax exemption for the property is granted on appeal, taxes paid on the exempt property shall be refunded by the Borough.

Section 2. That appellants who have claimed or asserted that properties are exempt prior to the time taxes were due for that year but whose properties have been assessed by the Borough assessing staff for the 1985 assessment year and all prior assessment years, have until December 31, 1985 to appeal such assessments pursuant to the procedures established under Section

1 of this ordinance; except that no appeal right under this ordinance shall exist if the property claimed to be exempt has been the subject of a final determination of taxes due through a tax foreclosure or other legal action.

Section 3. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 19th DAY OF November, 1985.


Betty Glick, Assembly President

ATTEST:


Joanne Brindley
Borough Clerk

