

Introduced by: Anderson,
Torgerson, Brown
Date: 09/07/93
Hearing: 10/12/93
Action: Defeated as Amended
Vote: 2 yes, 7 no

KENAI PENINSULA BOROUGH
ORDINANCE 93-48

**AN ORDINANCE PROVIDING FOR A BOARD OF EQUALIZATION
APPOINTED BY THE ASSEMBLY**

WHEREAS, the assembly currently serves as a board of equalization; and

WHEREAS, the assembly may provide for a separate board of equalization to hear assessment appeals; and

WHEREAS, many of the appeals involve issues where experience and familiarity with property values would be useful; and

WHEREAS, due to the statutory provisions board of equalization hearings are conducted at the time when the assembly must deal with adoption of the borough budget;

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

SECTION 1. That KPB 5.12.050 A. of the borough code of ordinances is amended to read:

5.12.050 A. A property owner or agent or assign of the property may appeal to the [BOROUGH ASSEMBLY AS A BOARD OF] equalization for relief from an alleged error in valuation not adjusted by the assessor to the property owner's satisfaction.

SECTION 2. That the borough code of ordinances is amended by adding a new section 5.12.052 to read:

5.12.052 Board of Equalization — Composition — Authority.

A. The board of equalization shall be composed of seven (7) regular members and three (3) alternates, all appointed by the borough assembly for a term of service of three years with initial terms staggered. All members shall be borough residents, but no member shall be a borough assembly member or borough employee. Members may be reappointed. Vacancies arising on the board shall be filled for the unexpired term by assembly appointment of alternates to regular seats and appointment of new alternate members.

B. Members and alternate members shall be appointed on the basis of their expertise in real and personal property appraisal, the real estate market, the personal property market, and other fields related to their functions as board members.

C. Board members shall disqualify themselves from voting on appeals where the board member has or had a financial or professional relationship with the appellant or concerning the property at issue in the appeal.

D. A presiding officer shall be selected by the board at its first annual meeting. The presiding officer shall preside over all proceedings of the board and may designate another member to act as presiding officer should the presiding officer be unable to attend.

E. The alternate members shall be named by the board's presiding officer, as the need arises, to serve as board members during the absence or disability, including disqualification, of regular members.

F. The board of equalization shall meet at the borough building on dates after the deadline for submitting appeals until all appeals are heard.

G. The board shall meet at least once in each first-class city in the borough when a sufficient number of appeals are to be heard within the area to warrant such a meeting.

H. Subsections A through G of this section shall cease to be of any effect on December 31, 1995 unless such time is extended by the assembly by ordinance. Should the time not be extended the assembly shall serve as the board of equalization and receive compensation and mileage as provided for board members in KPB 5.12.060.

SECTION 3. That KPB 5.12.060 of the borough code of ordinances is amended to read:

5.12.060 Board of equalization procedure.

A. The board of equalization may meet from 6: 00 p.m. to midnight, after the closing date for appeals, on dates scheduled by the borough clerk, until all appeals are heard. All appeals must be heard and decided before June 1.

B. A quorum of the full [ASSEMBLY] board must be present in order for the board of equalization to convene and take action. A quorum shall be a majority of the seated and serving regular members of the board or alternates serving in their place. Actions of the board shall be by the majority of members present.

C. [ASSEMBLY] M[m]embers shall be compensated at the rate of \$100.00 per session for each session attended in its entirety and shall be reimbursed for mileage to attend meetings at he same rate as assembly members[, IN ADDITION TO ALLOWANCES FOR EXPENSES PROVIDED ELSEWHERE IN THIS CODE].

D. [THE PRESIDENT OF THE ASSEMBLY SHALL PRESIDE OVER THE

BOARD HEARING.] The borough clerk shall attend the hearings to record the proceedings, record votes, administer the oaths to witnesses, and prepare the decision forms. The borough attorney shall attend the hearing to advise the board.

E. The [PRESIDENT] presiding officer shall open the board session by calling the board to order, reading a summary of procedures for the board, and by calling each appellant's name and asking if the appellant or representative is present. The president shall bring each appeal before the board in the order scheduled by the borough clerk.

F. If the appellant or representative is not present when called, the board shall dismiss the appeal.

G. All persons presenting evidence shall do so under oath, administered by the borough clerk.

H. The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. The presiding officer may limit the length of the hearing, or take other action to expedite the proceedings.

I. The assessor shall then present a brief summary of assessment data concerning the appealed property.

J. The appellant or representative then presents the appellant's case when called by the presiding officer. The assessor may question the appellant or other witnesses, through the presiding officer. Board members may question the appellant, upon recognition by the presiding officer.

K. The assessor or designee then presents the borough's case when called by the presiding officer. The appellant may question the assessor or other witnesses, through the presiding officer. Board members may ask questions of the assessor, upon recognition by the presiding officer.

L. The appellant and the assessor may present rebuttal evidence.

M. The assessor may recommend changes to the existing value during the hearing.

N. After the appellant and assessor have presented their cases, the hearing shall be closed by the presiding officer, and no further evidence shall be offered or considered.

O. The board may decide the appeal after the presentations, or it may defer a decision until no later than the last hearing date. Final board action shall be taken by motions that set out specific findings of fact, and shall not be reconsidered, amended or rescinded by the board. The motions available to the board are: motion to uphold the assessor's valuation, motion to reduce the assessment, motion to increase the assessment, motion to dismiss the appeal, motion to defer the decision, or any other motion set out in Alaska statutes and

regulations governing board of equalization appeals. Only one motion may be on the floor at a time, and the board shall vote on the motions until its findings are established. The vote must be taken and entered into the permanent record of the proceedings.

P. The burden of proof is on the appellant. The only grounds for the board to adjust the assessment are proof of unequal, excessive, improper, or under valuation, based on facts proven at the appeal hearing. The board may not alter the assessment of a property unless a timely written appeal has been filed concerning the property.

Q. After the last scheduled appeal is heard, the presiding officer shall adjourn the session.

R. The borough clerk shall prepare and certify the decisions of the board, and shall keep the decisions on file as part of the public record. The clerk shall promptly mail a copy of the board's decision to each appellant, by certified mail, and deliver a copy to the borough assessor.

S. Either the appellant or the assessor may appeal the decision of the board to the superior court in the Kenai venue district, within 30 days of the date of mailing of the board's decision, as provided by the rules of appellate procedure governing appeals from administrative agency decisions. The record on appeal is the record established at the board hearing.

SECTION 4. That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
12th DAY OF OCTOBER, 1993.**

Betty J. Glick, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk