

Introduced by: Mayor  
Date: 10/28/03  
Hearing: 12/16/03  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2003-43**

**AN ORDINANCE EXEMPTING LOW-INCOME HOUSING TAX CREDIT (LIHTC)  
PROJECTS, QUALIFYING ON OR AFTER JANUARY 1, 2001, FROM THE  
REQUIREMENT THAT ASSESSED VALUE BE BASED ON RESTRICTED RENTS**

- WHEREAS,** according to Alaska Statute 29.45.110(d), the Kenai Peninsula Borough Assessor is required to value low-income housing tax credit projects existing as of January 1, 2001, the effective date of the legislation, based on the actual income derived from the property, which can result in a value that is less than the traditional “full and true value”; and
- WHEREAS,** these projects must be qualified and recognized under the United States Tax Code 26 U.S.C. 42; and
- WHEREAS,** AS 29.45.110(d), requires the borough assembly to determine by ordinance whether the projects that qualify on or after January 1, 2001, shall be assessed based on the actual income, which is from restricted rents derived from the property; and
- WHEREAS,** if the assembly determines that such property is exempt from the requirement that the assessment be based on restricted rents, it can by parcel authorize the Borough Assessor to assess the projects at either full and true value or based on actual income derived from the property; and
- WHEREAS,** to date, there is an 18-unit low-income housing project in Seward, Alaska receiving the benefit of the rent-restricted income approach to value for the years 2001, 2002, and 2003. There are two pending low-income housing projects in Soldotna and Seward whose owners have expressed an interest in valuation based on actual income derived from the property; and
- WHEREAS,** that in accordance with A.S. 29.45.110(d)(2), the Kenai Peninsula Borough Assembly finds that properties that first qualify for a low-income housing credit on or after January 1, 2001, should be exempt from the requirement that all such properties’ assessed value be based on the actual income derived from the property, and that the assembly shall determine by parcel whether such property shall be valued based on restricted rents or the estimated price it would bring on the open market;

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

**SECTION 1.** That KPB 5.12.085 is hereby enacted to read as follows:

**5.12.085. Method of determining the full and true value of property that qualifies for a low-income housing credit under 26 USC 42.**

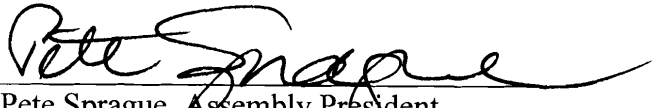
A. In accordance with AS 29.45.110(d)(1), the full and true value of all property within the Kenai Peninsula Borough that first qualifies for low-income housing credit under 26 USC 42 before January 1, 2001, shall be based on the actual income derived from the property and may not be adjusted based on the amount of any federal income tax credit given for the property.

B. Pursuant to AS 29.45.110(d)(2), the full and true value of all property within the Kenai Peninsula Borough that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, shall be exempt from the requirement that the value be based on the actual income derived from the property. For property that first qualifies for a low-income housing credit under 26 U.S.C. § 42 on or after January 1, 2001, the assembly may determine, by parcel, whether the property shall be assessed based on the estimated price that it 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, or on the basis of actual income derived from the property without adjustment based on the amount of any federal income tax credit given for the property. Once the manner of assessment of the property has been determined under this subparagraph, the assembly may not change the manner of assessment of that parcel of property if debt relating to the property incurred in conjunction with the properties qualifying for the low-income housing tax credit remains outstanding.

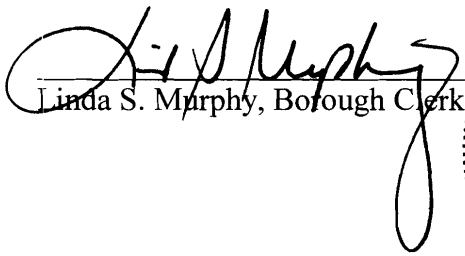
C. To secure an assessment based upon the actual income derived from the property under this section, an owner of property that qualifies for the low-income housing credit shall apply to the assessor before May 15 of each year in which the assessment is desired. The property owner shall submit an application on forms prescribed by the assessor and shall include information that may reasonably be required by the assessor to determine the entitlement of the applicant. All such applications shall be forwarded to the assembly by resolution for a determination of the assessment manner.

**SECTION 2.** That this ordinance shall take effect January 1, 2004.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH  
DAY OF DECEMBER, 2003.

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

