



Alice Ruby, Mayor

City Council Members

- Elizabeth Pearch • Paul Liedberg • Bob Himschoot
- Keggie Tubbs • Tracy G. Hightower • Tim Sands

DILLINGHAM CITY COUNCIL

David B. Carlson Council Chambers

Dillingham City Hall, 141 Main Street, Dillingham, AK 99576 (907) 842-5212

BOARD OF EQUALIZATION	5:30 P.M.	JANUARY 5, 2012
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I. CALL TO ORDER

II. ROLL CALL

III. NEW BUSINESS

A. Late Filed Appeals for Consideration

1. Real Property

- a. Verna M. Nelson – Block 4, Nerka IV Subdivision
- b. Timothy Ludlow – Lot 6 Wood River Subdivision
- c. Susan and Gorden Isaacs – Lot 15, Creekside Subdivision #2

IV. CITIZEN'S DISCUSSION (Prior Notice or Agenda Items)

V. UNFINISHED BUSINESS

VI. ADJOURNMENT

Request for a Hearing for a Late Filed Appeal of a Property Tax Assessment

The issue is whether the BOE should consider a late-filed appeal of a property tax assessment. The appeals were due April 15, 2011. The City's Attorney has advised that this is handled under DMC 4.15.125 (D) which requires the taxpayer to file a letter with the city clerk explaining why the taxpayer was unable to comply within the time limits and file an appeal within thirty days. Once these letters are filed with the city clerk the BOE is required to consider each letter and any supporting documents. A taxpayer may not make an oral presentation at this hearing. The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal. If the request is granted, the taxpayer shall have thirty days from the date of notification by the city clerk to file an appeal. If the request is denied, the city clerk shall notify the taxpayer of the board's decision.

A. Late Filed Appeals for Consideration

Page 6 1. a. Verna M. Nelson – Block 4, Nerka IV Subdivision

Verna Nelson filed an appeal July 25, 2011. In her letter she notes she did not know of any appeal deadline.

Pages 7-9 1.b. Timothy Ludlow – Lot 6 Wood River Subdivision

Tim Ludlow is asking the City to accept his late filing due to the circumstances laid out in his letter of September 2, 2011. He is claiming that the acts of vandalism on his property were not brought to his attention early enough to bring forward a timely appeal.

Notification of the January 5, 2012 BOE meeting was sent to the mailing address provided by Tim Ludlow and to the email address to Jack Smith. The post office mailing was returned as not able to forward. Communication via email with Jack Smith was successful.

Pages 10-11 1.c. Susan and Gorden Isaacs – Lot 15, Creekside Subdivision #2

Susan and Gorden Isaacs are asking the City to accept their late filing in order to appeal the assessment of their property identified as Lot 15, Creekside Subdivision, purchased in October of 2009. The reason for the late appeal they note is due to the unusual circumstances of the land transfer and tax billing warrant a variance of the City's appeal procedure. The tax bills for 2010 and 2011 were mailed to the prior owner. Sometime in July 2011, the City transferred the unpaid 2010 and 2011 taxes from the previous owner's account to the Isaac's account. The Isaacs noted in their letter that they were not alarmed when they did not receive a tax assessment, since the land, a native allotment, was still in the process of being transferred.

From Attorney Chandler: The threshold decision for the BOE is whether to allow the late-filed notice of appeal. The basis for that claim is the failure of the Isaacs to receive the assessment notice. The Isaacs failed to receive the assessment notice because the City was not aware they owned the property. We are not 100% sure of why we were not aware of the change of ownership but assume this relates to either the BIA or the Isaacs not recording a deed they obtained in 2009, the Recorder's Office not including the property in the updates of property ownership changes provided to the City which is the basis of our annual assessment roll and property tax mailing list or the City failing to pick up on the ownership change despite the presence of either or both a recorded deed or notice of the property transfer.

The City's obligation is to send the tax assessment to the "record owner". AS 29.45.160(b). The "record owner" is the person last identified by the Recorder's office as the owner of the property as of January 1 of the tax year. The City is supposed to receive a monthly update of changes in ownership from the Recorder's Office. We should verify the procedure used to send out the assessment notices and make sure we complied with our procedure. If we ignored information about the change of ownership the City should allow the late-filed appeal. But if we sent the notice to the last known owner per Recorder's Office records we believe the City should not allow the late-filed appeal. Either the old owner, the new owner or the Recorder's Office should have informed the City of the change of ownership. We do not have an obligation to confirm that the most recent ownership information we have is correct if deeds are not recorded.

City Clerk Note: The Recorder's Office stopped providing changes in ownership in 2007. This places the burden on the City to obtain the information from the new or old owner or visit the website and download updates through the State's system. The finance department may not have been made aware of this when they assumed the responsibility of administering real and personal property taxes in 2010.

Attachment(s): Letters from the City Clerk dated 12/12/2011 notifying of the 1/5/2012 BOE meeting
Letter from Verna Nelson
Letter from Tim Ludlow, dated September 2, 2011/Email Message dated 11/28/2011 from his representative Jack Smith
Email from Sgt. Pasquariello dated 11/2/2011 regarding investigation of vandalism
Letter from Susan and Gorden Isaacs dated November 7, 2011
Copy of Dillingham Municipal Code 4.15.125 Appeals to Board of Equalization



December 12, 2011

Verna Nelson
PO Box 1406
Dillingham, AK 99576

Subject: Appeal Filed July 25, 2011
Block 4, Nerka IV Subdivision

Dear Verna:

First and foremost, I wish to apologize on behalf of the City for not getting back to you sooner on your late filed appeal dated July 25, 2011. This was to review the valuation on property identified as Block 4, Nerka IV Subdivision. The deadline to file an appeal was April 15, 2011.

You will have an opportunity to have your late appeal heard. On January 5, 2012, the Board of Equalization will meet at 5:30 PM, in the Council Chambers, to consider several late appeals. Dillingham Municipal Code, Chapter 14.125 D, states a taxpayer who requests to appeal his valuation after the thirty-day filing period has closed shall file a letter with the city clerk stating the reasons why the taxpayer was unable to comply within the thirty-day period. The board of equalization shall consider each letter. The board's determination shall be based on the letter and any supporting documents. A taxpayer may not make an oral presentation at this hearing. The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal.

The deadline to file a letter with the City Clerk is Tuesday, January 3, 2012, at 5:00 PM. You can also send me an email, if that would work best for you.

Sincerely,


Janice Williams
City Clerk
cityclerk@dillinghamak.us

Delivered: Mail
E-mail: seannverna@nushtel.net



December 12, 2011

Tim Ludlow
200 West 34th 174
Anchorage, AK 99503

Subject: Late Filed Appeal Dated November 28, 2011
Lot 6 Wood River Subdivision

Dear Tim:

You will have an opportunity to have your late appeal heard. On January 5, 2012, the Board of Equalization will meet at 5:30 PM, in the Council Chambers, to consider several late appeals. Dillingham Municipal Code, Chapter 14.125 D, states a taxpayer who requests to appeal his valuation after the thirty-day filing period has closed shall file a letter with the city clerk stating the reasons why the taxpayer was unable to comply within the thirty-day period. The board of equalization shall consider each letter. The board's determination shall be based on the letter and any supporting documents. A taxpayer may not make an oral presentation at this hearing. The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal.

You do not need to file another letter at this time. We will be offering the email message from Jacques Smith dated November 28, 2011, of which a copy is attached. You can attend in person or via teleconference. If you would like to attend via teleconference, please let me know and we will arrange it. My direct line is 842-5212.

Sincerely,

A handwritten signature in cursive script that reads "Janice Williams".

Janice Williams
City Clerk
cityclerk@dillinghamak.us

Enclosure: Email Message dated Nov. 28, 2011
Letter from Tim Ludlow dated September 2, 2011

Delivered: Mail
E-mail: jacksmithesq@hotmail.com



December 12, 2011

Susan and Gorden Isaacs
Box 563
Dillingham, AK 99576

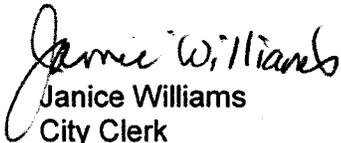
Subject: Late Filed Appeal Dated November 7, 2011
Lot 15, Creekside Subdivision #2

Dear Susan and Gorden:

You will have an opportunity to have your late appeal heard. On January 5, 2012, the Board of Equalization will meet at 5:30 PM, in the Council Chambers, to consider several late appeals. Dillingham Municipal Code, Chapter 14.125 D, states a taxpayer who requests to appeal his valuation after the thirty-day filing period has closed shall file a letter with the city clerk stating the reasons why the taxpayer was unable to comply within the thirty-day period. The board of equalization shall consider each letter. The board's determination shall be based on the letter and any supporting documents. A taxpayer may not make an oral presentation at this hearing. The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal.

You do not need to file another letter at this time. We will be offering the letter you filed with the City dated November 7, 2011, of which a copy is attached. You can attend in person or via teleconference. If you would like to attend by teleconference, we can arrange it. My direct line is 842-5212.

Sincerely,


Janice Williams
City Clerk
cityclerk@dillinghamak.us

Enclosure: Letter Dated November 7, 2011

Delivered: Mail
E-mail: bcbbinfo@gmail.com

January 3, 2012

City of Dillingham
P.O. Box 889 141 Main Street
Dillingham, AK 99576

Subject: Appeal Filed July 25, 2011
Block 4, Nerka IV Subdivision

To Whom It May Concern:

I, Verna M. Nelson, owner of said property above, did not know of an appeal deadline.
All documents known to me have been provided to your office for review.

Contact me should you require further information and/or clarification.

Sincerely,



Verna M. Nelson
P.O. Box 1406
Dillingham, AK 99576

September 2, 2011

I, Timothy A. Ludlow, own the home and lot at lot 6 woodriver subdivision. I just found out in July that the home has been vandalized. Two of your police officers contacted my friend Jack Smith while he was visiting Dillingham in July. Officer Pasquerello and one new officer told Jack of the damage and vandalism. Jack contacted me, it was the first I heard, the first I knew the home was empty in over 4 or 5 years, maybe longer. According to the officers, and confirmed by Jack when he went out to board up the doors and windows, the toilets have all been smashed, windows broken, doors kicked in and multiple fires have been lit inside. The heating system has been stolen, the fuel tank broken into, the fuel lines smashed, lights broken. Everything is broken or smashed and part of it is burned inside. The Dillingham Police told Jack the home has been in this condition for some time, but I did not know until Jack called the day after the police contacted him.

I did not know the house was empty, I did not know the taxes were behind until this summer. I would like to request a retroactive tax adjustment, to allow me to repair the home. The home has been in this condition for some time, at least 4 or 5 years. The tax assessment should reflect the actual condition over that time, it should be significantly lower than the \$260k for home and land that was told to my friend Jack.

Please respond to Jack and myself via his email or by mail to 200 west 34th # 174 anchorage alaska 99503.

Timothy A. Ludlow

A handwritten signature in cursive script that reads "Timothy A. Ludlow". The signature is written in black ink and is positioned below the typed name.

From: jacques smith [mailto:jacksmitheq@hotmail.com]
Sent: Monday, November 28, 2011 6:23 PM
To: cityclerk@dillinghamak.us
Subject: RE: Ludlow Property

the dillingham police first notified us of the properties condition in july 2011, the first we knew it had been vandalized. The officers said it had been a problem and in that condition for at least 4 years, but they never notified us - that is the extenuating condition.

From: cityclerk@dillinghamak.us
To: jacksmitheq@hotmail.com
Subject: RE: Ludlow Property
Date: Mon, 28 Nov 2011 16:10:05 -0900

Jack, please note the taxpayer is required to file a letter with the city clerk explaining why he did not file an appeal within the time limits, which would have been by April 15, 2011. I am sorry that I did not relay that earlier.

Janice Williams
City Clerk

-----Original Message-----

From: Dan Pasquariello [mailto:dan_pasquariello@dillinghamak.us]
Sent: Wednesday, November 02, 2011 6:33 PM
To: Doug Dombroski
Subject: Re: FW: lot 6 woodriver subdivision

A review of the DDPS records management system by Dispatcher Supervisor Warch provided the following information of calls to the described residence:

5-24-11 - Officer Bird was dispatched to the residence to investigate a report of juveniles riding bikes and entering the residence. The dispatch card does not indicate what action was taken by Officer Bird.

7-01-11 - Sgt Schiaffo was dispatched to the residence to investigate a report of juveniles entering the residence. Sgt Schiaffo walked through the residence but did not find anyone inside. He was unable to determine who had entered.

7-10-11 - Recruit Officer Casselman and I were dispatched to investigate a report of juveniles inside of the residence. We did not find anyone inside of the residence. We found that the residence had been vandalized. Dispatch did not have a record of who the owner was, or a contact number of a responsible party. I was aware, via my long-term experience in Dillingham, that the house was once owned by the Dillingham Bible Fellowship. We contacted them and learned that the house was turned over to Wells Fargo bank. We contacted the Bank Manager and learned that the house was now owned by non-resident Timothy Ludlow, and that he had a friend in Dillingham named Jack Smith. We contacted Smith, who said he would board up the residence, which he did. Officer Casselman attempted to contact Ludlow at his last known address of Kake, Ak, but was unsuccessful (DDPS case #11-245)

Sgt Dan Pasquariello

Date: 11/03/11

November 7, 2011

City of Dillingham

Attention: Janice Williams, City Clerk

RECEIVED

NOV 10 2011

CITY OF DILLINGHAM
CITY CLERK

Dear Janice:

We received a letter on July 21, 2011 for property tax bills for the years 2010 and 2011 for the property we purchased on Emperor Way, Lot 15 of Creekside Subdivision #2.

The purchase became convoluted because Elaine Ingram had passed away, then her son passed away with his share going to his non-native father before the BIA was ready to issue a deed.

On October 22, 2009, BIA issued a 4/5 deed to us as we have acquired the property in a foreclosure situation. The other 1/5 remains unrecorded. We are still working to finish that transfer.

In previous purchase, the then acting City Clerk told us that the City would levy taxes based upon a search of transfers filed with the recorder's office. We were told that the current procedure is to rely on rumor and/or purchaser notifying the City. This seems haphazard at best. I would recommend a review of that policy.

Since this property transfer is still incomplete, we were not alarmed to not get a tax assessment. But when we did get this assessment, we were surprised at the value applied.

We contacted your tax office and arrangements were made to meet with your tax assessor. After showing him the condition of the house, he readily agreed that he had made a large mistake in valuing the property and verbally told me that we would lower it significantly to a value that I agreed with. He had wrongly assumed that the house had been finished; rather it had actually deteriorated from when he had originally looked at it several years before. Among other thing, the house still had the original temporary roof, that was leaking badly and had frozen up and flooded with about a foot of water.

In subsequent talks with your tax office, we were told that though we were not given the opportunity to contest that incorrect valuation within the published appeal time, they cannot correct the past mistake, but only can correct future valuations beginning in tax year 2012.

We think that the unusual circumstances of this transfer and tax billing warrant a variance of your normal appeal procedure.

We hereby request that you adjust the valuation to the value already recommended by your assessor, for the years 2010 and 2011.

If it is necessary to hold a special appeals board, we would be glad to present our evidence for the board for their review.

On November 1st, we paid a partial payment to the City for taxes for 2010 and 2011 for this property. In the letter from the City it stated property taxes were due for this property November 1 and December 1. We would like to not pay anymore monies for these years, until we have an opportunity to discuss this further with the City and present our facts and our appeal.

Please contact us and let us know what the next step would be. We will be out of Dillingham November 15 until November 27th.

Thank you.

A handwritten signature in cursive script that reads "Susan Isaacs".

Susan Isaacs and Gorden Isaacs

Po Box 563

Dillingham, AK 99576

Email: bcbbinfo@gmail.com

907-842-7335

907-843-0474 cell (Gorden)

Cc: Ted Angasen/City of Dillingham

8. Decisions. At the conclusion of the hearing the boards shall determine whether the assessment is proper. The board shall issue findings of fact and conclusions of law clearly stating the grounds upon which the board relied to reach its decision.

9. Certification. The board shall certify its decision for an appeal to the assessor within seven days following its issuance.

10. Approval of Value Agreed Upon Between Assessor and Appellant. After an appeal has been filed to the board of equalization, the assessor will prepare a memorandum to the board of equalization for any new value which has been tentatively agreed to by the assessor and appellant, requesting the approval of the new value. If the board of equalization does not approve the value, the assessor shall schedule the appeal for a hearing and the city clerk shall properly notify the appellant.

F. Appeal to Superior Court. The appellant or the assessor may appeal a decision of the board to the superior court within thirty days in accordance with the rules of appellate procedure of the state. (Ord. 01-12 § 1 (part), 2001.)

4.15.125 Appeals to board of equalization.

A. A person whose name appears on the assessment roll or his agent or assigns may appeal to the board of equalization for relief from an alleged error in valuation.

B. No appeal may be taken unless the applicant files with the city clerk written notice of appeal specifying grounds for such appeal within thirty days from the date the assessment notice was mailed.

C. The city clerk shall acknowledge the written appeal by sending the appellant a notice, and notify the appellant by mail of the time and place for the hearing before the board and assign a case number to the appeal.

D. A taxpayer who requests to appeal his valuation after the thirty-day filing period has closed shall file a letter with the city clerk stating the reasons why the taxpayer was unable to comply within the thirty-day period. The board of equalization shall consider each letter. The board's determination shall be based on the letter and any supporting documents. A taxpayer may not make an oral presentation at this hearing. The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances which would prevent a reasonable person under the circumstances from filing an appeal. If the request is granted, the taxpayer shall have thirty days from the date of notification by the city clerk to file an appeal. If the request is denied, the city clerk shall notify the taxpayer of the board's decision. (Ord. 01-12 § 1 (part), 2001.)

4.15.130 Assessment roll—Appeal and hearing.

A. Pursuant to AS 29.45.190, 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. In addition to the appeal procedures set forth therein, whenever it appears to the board that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed to that person or his agent giving him a least thirty days from the date of such mailing within which to appeal to the board against the assessment.

B. In compliance with the provisions of AS 29.45.210, at the time appointed for the hearing of the appeal or as soon thereafter as the appeal may be heard, the board shall hear the appellant, the assessor, other parties to the appeal and their witnesses, and consider the testimony and evidence adduced, and shall determine the matters in question on the merits and render its decision accordingly. If any party to whom notice was mailed, as above set forth, fails to appear, the board may proceed with the hearing in his/her absence. The burden of