

**BEFORE THE STATE ASSESSMENT REVIEW BOARD  
STATE OF ALASKA**

In the Matter of	)	
	)	
VALDEZ SPILL RESPONSE PROPERTY	)	
ASSESSMENTS	)	
	)	
Oil & Gas Property Tax (AS 43.56)	)	OAH No. 19-0386-TAX
1997-2016 Assessment Years	)	
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**DECISION ON APPEALS FOR TAX YEARS 1997 THROUGH 2016**

This consolidated matter has, at various times, included appeals of Valdez Spill Response Property Assessments filed by the City of Valdez between 1997 and 2021. Over the years, these appeals have been the subject of numerous administrative and superior court proceedings.<sup>1</sup> In 2013, the superior court remanded appeals for tax years 1997 through 2002 to DOR.<sup>2</sup> Valdez also appealed ICDs for tax years 2003 through 2016 which were stayed at the administrative appeal stage. For tax years 2017 through 2021, DOR and Valdez agreed to stay the matters before DOR. Thus as of December 2021, tax years 1997 through 2002 were pending before DOR, tax years 2003 through 2016 were pending before the State Assessment Review Board (“SARB”), and tax years 2017 through 2021 were pending before DOR.<sup>3</sup>

On December 14, 2021, the Department of Revenue issued a supplement assessment that superseded the assessments for tax years 1997 through 2021. That assessment was appealed to SARB in early February. Shortly thereafter, Superior Court Judge Lamoureux held that DOR could not audit years 1997 through 2016 because of the three-year limitation period for assessing property. SARB therefore proceeded with a hearing on the supplemental assessment for only tax years 2017 through 2021.

SARB asked DOR, Valdez, and the property owners to submit a statement of their position on the status of the 1997 through 2016 appeals. DOR’s position is that under Judge Lamoureux’s decision, Valdez’s appeals should be denied.<sup>4</sup> Valdez’s position is that it cannot

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<sup>1</sup> A summary of many of these proceedings can be found in Judge Morse’s decision in *City of Valdez v. State, Dep’t of Revenue*, consolidated cases 3VA-00-00022 CI, 3VA-10-00084 CI, 3AN-11-07874 CI (Superior Court Nov. 18, 2013).

<sup>2</sup> *Id.*

<sup>3</sup> Some appeals over the years went to OAH under a regulation that limited SARB’s authority to issues of value. The Supreme Court held in 2016 that SARB has authority to address taxability, so any pending property tax appeals from DOR ICDs would be before SARB. *City of Valdez v. State*, 372 P.3d 240, 248-56 (Alaska 2016).

<sup>4</sup> DOR also stated that taxpayers’ appeals should be granted. However, the taxpayers did not appeal the 1997 through 2016 assessments to SARB or OAH.



resolve a matter within the limitation period and SARB cannot resolve Valdez's appeals without "reconsider[ing] its position on the availability of discovery" and therefore SARB should uphold the assessments so Valdez can have a trial de novo in superior court.<sup>5</sup> Owners of the assessed property take the position that Valdez's appeals should be dismissed because the three-year limitation period bars adding previously unassessed property for these years and a six-year limitation period bars levying any additional tax. Alaska Marine Lines submitted a statement that it was unaware of its property being subject to the assessments or related appeals.

DOR had already issued its supplemental assessment at the time Judge Lamoureux held that DOR was time barred from doing so for tax years 1997 through 2016. SARB thus understands Judge Lamoureux's decision as invalidating DOR's supplemental assessment as to tax years 1997 through 2016. Absent that supplemental, assessments for tax years 1997 through 2002 were pending before DOR, not SARB, so SARB does not need to address those tax years. Appeals for tax years 2003 through 2016, absent the supplemental, are pending before SARB. The question is whether there are issues in these appeals for SARB to resolve.

As the taxpayers point out, there are two time limits applicable to tax appeals: three years to assess a tax and six years from the assessment to collect the tax.<sup>6</sup> These period may both be extended by written agreement between DOR and the taxpayers.<sup>7</sup> SARB has not been privy to any such agreements and notes that the parties did not raise the existence of any agreements when asked to address the status of these tax years. SARB thus concludes that there are no agreements.

Under Judge Lamoureux's decision, the three-year limit bars DOR from assessing any additional property for tax years 2003 through 2016. To the extent Valdez's appeals seek to add escaped property, those appeals are thus time barred. To the extent these appeals include any issues regarding the value of the property DOR did assess, DOR issued those assessments more than six years ago. Thus even if SARB determined that DOR undervalued the property, DOR would be time barred from collecting additional tax. This lack of an available remedy effectively moots Valdez's appeals for these years.<sup>8</sup>

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<sup>5</sup> SARB set a one-page limit for these statements. The City of Valdez nonetheless filed a two-page statement without requesting leave to extend the page limit. SARB will accept this filing but admonishes Valdez to comply with procedural orders in the future.

<sup>6</sup> AS 43.05.260; AS 43.05.270.

<sup>7</sup> AS 43.05.260(c)(3); AS 43.05.270(a)(2).


<sup>8</sup> *Fairbanks Fire Fighters Ass'n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002) ("A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails.").

DOR urges SARB to deny the appeals as time barred. But the appropriate action when an appeal is time barred or moot is not to deny the appeal, but to dismiss it.

Valdez's position that SARB should simply affirm the assessments to allow an appeal to superior court on the merits is similarly inappropriate. SARB may not ignore Judge Lamoureux's decision or the statutes that impose time limits. Nor should SARB ignore the statutes and regulations that require an expedited procedure for SARB hearings that does not include prehearing discovery. These procedures are not a "position" that SARB can "reconsider," as Valdez contends. If Valdez wants a different procedure for SARB appeals, it should take that up with the legislature.

As chair and on behalf of the State Assessment Review Board, and in accordance with AS 43.56.130(b), I hereby dismiss the City of Valdez appeals of Valdez Spill Response Property Assessments for tax years 2003 through 2016. To the extent any portion of appeals for tax years 1997 through 2002 are pending before SARB, those appeals are dismissed as well.

DATED: May 20, 2022.

  
James I. Mosley, Chair  
State Assessment Review Board

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.



I certify that on May 23, 2022, this document was served on the following by email:

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