

Receipt # \_\_\_\_\_ Date 6/20/16 Building Board Case No. BCA-04-2016  
Permit No. \_\_\_\_\_

MUNICIPALITY OF ANCHORAGE

Board of Building Regulations Examiners and Appeals

Appeal Emanating from Action of the Building Official

Appeal Emanating from Action of the Fire Official

I (we) Tom Thompson 907-529-5120  
Appellant Telephone Number  
of 726 E 15<sup>th</sup> ANCH AK 99501  
Mailing Address City State Zip Code

request a determination be made by the Building Board on the case of:

- a. \_\_\_\_\_ permit denial (type)
- b.  FINISHED BASEMENT (other)  
VALUATION & FEES

Street Address of Project: SEVERAL  
Legal Description: \_\_\_\_\_  
Between Cross Streets: \_\_\_\_\_ and \_\_\_\_\_  
Status of Project: (check applicable boxes)


- a. Construction has  has not  started.
- b. Construction was suspended more than six months ago.
- c. Construction is in progress but a stop-work order has been issued by the Municipality.
- d. Construction is pending.
- e. Other SOME COMPLETE, BUT MOST ONGOING.  
(please state)

This appeal is based on the action of the Building Official or Fire Official, who claims that:  
(check one or more)

- a. Materials(s) chosen (is) (are) not appropriate for intended use.
- b. Type(s) or method(s) of construction (is) (are) not permitted.
- c. A Fire/Life Safety deficiency exists for the intended type of occupancy, which takes precedence over the plans as submitted and approved for permit.
- d. Other MOA POLICY R.O. WAS IN PLACE AND ADOPTED  
(please state) AS PER 23.10.103.3. BASED UPON  
MANY MEETINGS WITH AHBA. TO GET  
VALUATION IN LINE FOR COSTS IN  
ALASKA. AND B.O. STATES BECAUSE  
COMPUTER PROGRAM WAS PROGRAMMED  
THAT WAY THE POLICY IS NOT ABLE TO  
BE USED.

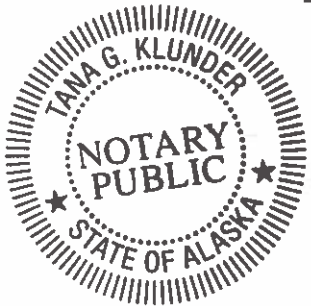
I (we) contend that such an interpretation is incorrect or incomplete as per CODE  
Section 23.10.104.13.5 of the ADMINISTRATIVE, which supports the following belief:  
(number & paragraph) (state which code)


State main reason(s), please be brief: ~~RE~~ VALUATIONS ARE USUALLY  
CALCULATED AS PER NATIONAL STANDARDS AND  
A 1.3 FACTOR IS MULTIPLIED BY THAT FEE  
TO ACCURATELY ~~SET~~ ~~BE~~ PRICE THE JOB TO  
ALASKA'S COST. MANY YEARS AGO THE ~~IB~~ AISHA  
ALONG WITH STAFF AND ADMINISTRATION  
AGREED TO CALCULATE FINISHED BASEMENTS  
AT \$50 PER SQUARE FT. ALL FORMS REFLECTED  
THIS \$50 VALUATION, ~~IT WAS SET~~ SINCE IT  
WAS SET IN ALASKA ~~WE~~ IT WAS NOT  
INTENDED TO BE MULTIPLIED BY 1.3. THE POLICY  
WAS WRITTEN AND FEES WERE BASED UPON THIS.  
SINCE MY REQUEST ALL FORMS HAVE BEEN  
REVISED, ~~AND~~ POLICY HAS BEEN TAKEN OFF LINE  
WITHOUT THE MAJOR POLICY REQUIRING 30  
DAY REVIEW, THE FEES WERE THEREFORE CORRECTED  
IN ERROR BECAUSE HANSEN INCORRECTLY CALCULATED  
THEM. ALL ~~PERMITS~~ SHOULD BE REFUNDED TO  
EVERY ONE THAT WAS ~~BE~~ BILLED INCORRECTLY.

  
\_\_\_\_\_  
Signature of Appellant  
726 E 15<sup>th</sup> Ave  
\_\_\_\_\_  
Address  
ANCH AK 99501  
\_\_\_\_\_  
City State Zip Code

907-529-5120  
\_\_\_\_\_  
Telephone  
\_\_\_\_\_  
Fax

Subscribed and sworn to before me this 20<sup>th</sup> day of June, 2016.



  
\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: Mar. 10, 2019



**SCOPE**  
**PERMITTING & ENGINEERING**

726 e 15<sup>th</sup> Ave, Suite 200  
Anchorage, Alaska 99501

## BUILDING BOARD APPEAL

Refunds for  
Unfinished/Finished Basements



## INTRODUCTION

The MOA Building Safety Division has incorrectly administered fees as per the code and as per their advertised policies specifically R.01. As per Title 23 the Building Official duties are to set policy to help clarify code when needed to administer it correctly. In this case the Building Official along with the Administration met monthly with AHBA and during those meetings it was determined that the valuation being used for finished and unfinished basements needed to be reviewed. A policy by the Building Official was written as were many policies to help clarify the intent of the code and then all policies would be available for everyone's use. This policy R.01 was created and is still in effect today. The policy required 30 day review when it was created and by Mayoral policy the 30 day review of all policies is still in effect today. When I submitted November 16, 2015 the policy was in place and therefore is in effect and should be enforced as written or revised or eliminated through the 30 day mayoral policy process. After this policy was created Hansen was purchased and programmed incorrectly. No one caught this problem until this past year when I calculated fees for an owner by policy and code and the Building Department calculated a different fee. I tracked down where the discrepancy was and then discussed with the Permitting Supervisor, Gretchen. She agreed it was an error and corrected it in the permit I filed for. We discussed that there had been an error and she agreed. I told her I would be filing for a refund for my clients that usually submit basements. We are at that point now.

## Facts

**Fact 1)** Policy R.01 existed since 1996 with revisions over the years 96-06, 97-03, 99-06, 99-10, 99-11, 99-12, 01-03, and 01-12. Last signed by Ron Thompson April 7, 2006. And it included the language:

**“All Unfinished basement areas will have a construction valuation calculated at \$20 per sq ft.”**

And

**“All finished basement area will have construction valuation calculated at \$50 per sq.ft.”**

\*\*\*\*\*See attached copy of policy R.01 if you would like to see all years please ask MOA for copies as they should have all of them in their history.



# Municipality of Anchorage



1'  
1'  
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1  
11  
##  
12  
12  
12  
112  
11:  
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11  
01  
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0'

## Policy R.01

### Unfinished Areas in One- and Two-Family Dwelling Units

For the purpose of this policy the following definitions, requirements and construction valuation apply:

**Basement** - any floor level below the first story in a building.

**First story** - the lowest story in a building that qualifies as a story, which is that portion of a building included between the upper surface of any floor and the upper surface of the floor above.

**Finished basement** - drywall has been installed.

#### Unfinished areas must meet the following minimums:

**Exterior walls** - insulation, vapor barrier.

**Interior walls** - bare studs. \* (Note: drywall is not required under stairs if no other drywall has been installed. If any other part of the unfinished area is drywalled, then enclosed accessible areas under stairs must be drywalled and firestaped per code. The incidental installation of drywall behind equipment is permitted.)

**Shear wall** - plywood as required for structural; electrical wiring required if shear wall is sheathed on both sides.

**Ceilings** - no finishes required.

All unfinished basement areas will have construction valuation calculated at \$20 per sq. ft.

One smoke detector in basement (or unfinished area) per Building Code.

#### Required electrical wiring in unfinished areas:

- at least one wall switch-controlled light;
- one GFCI protected receptacle in basement;
- one 110 volt-battery back-up smoke detector;
- in general, NM cables installed parallel to framing members as per NEC Section 300-4(d) will not require physical protection other than that provided by its location;
- spare raceways, wiring, or wiring pathways must be provided from the panel location to these unfinished areas for future electrical installations.
- when installing electrical in exterior walls, it will not trigger the requirement that the entire room or area be provided per the electrical code.

Any exposed vapor barrier must meet flame spread Class III Index 76-200.

Requires a letter from the owner or contractor to end user stating the following requirements:

- that a new permit must be obtained by end user before the space is finished;
- that code-complying egress windows shall be added for any basement bedrooms as required by code;
- that additional 110V with battery backup interconnected smoke detection will be added in bedrooms and in hallway leading to bedrooms;

Future owners shall be notified of these requirements at closing, and these requirements will be noted on the certificate of occupancy.

**Finished Areas:** Installation of gypsum board (sheetrock) constitutes a finished area. All finished basement areas will have construction valuation calculated at \$50 per sq. ft.

\* NOTE: Designer must verify that imposed bearing loads (axial and bending) can be resisted in both directions by unheated wall studs (i.e. - bucking of studs).

Rory Thompson, Building Official

Date: April 7, 2006

(Ref: 96-06, 97-03, 99-06, 99-10, 99-11, 99-12, 01-03, 01-12)


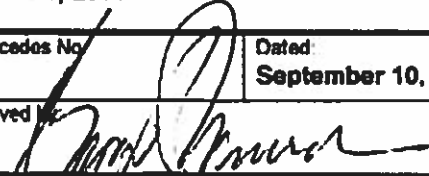


**Fact 2)** Building Official worked with AHBA to set these valuations as well as many of the detailed issued written into this policy because nothing in the national magazine fit. Finished and Unfinished basements were always a huge priority of AHBA and therefore to clarify all the decisions made within the monthly meetings were documented within policies to ensure proper enforcement and clarification to everyone. AHBA and the MOA still meeting monthly to this date and decisions are made with MOA in many of these meetings. One other such policy is the Mayoral Policy for 30 day review. AHBA demanded that the MOA not change how they would enforce does without first putting a change out for 30 day review. Subsequent to this filing I have made I informed the Acting Building Official of this policy and now the issue is out for the proper 30 day review. At the time there was no valuation criteria in the national magazine that fit what we were allowing in unfinished basements and has never had a finished basement figure which is why I set one with the help of AHBA. Since a finished basement number was never available in the national standard we set one in Anchorage that everyone would agree on and that was \$50. Since the figure was set in Alaska it never needed a multiplier to go with it. See the MOA permit Application form which shows this as it was implemented. The form has recently been revised and the 1.3 factor has been added.

See attached Mayoral Policy:

See attached Permit Application form:



 <b>MUNICIPALITY OF ANCHORAGE OPERATING POLICY/PROCEDURE</b>	P&P No. <b>46-3</b>	Page 1 of 2
	Effective Date: October 1, 2000	
Subject: <b>Procedure for Changing and Enforcing Codes and Policies of the Office of Planning, Development &amp; Public Works</b>	Supersedes No. <b>46-3</b>	Dated: <b>September 10, 1997</b>
	Approved: 	

1. PURPOSE

To establish the policy and procedure for enforcing policies, regulations, interpretations, or provisions of the building codes which are a change from previous enforcement activities.

2. POLICY

It is the policy of the Municipality that any changes to past policies or interpretation of regulations and/or provisions of the building codes shall not be enforced until a 30-day advance notice has been provided. This 30-day notice period is to offer time for comment from the community.

In the event the Building Official determines that an imminent life/fire safety condition exists which can be lessened by the changed policy, regulation, interpretation, or provision of the building codes, no advance notice is required.

(Note: This policy and procedure will not be required when enforcing requirements of newly adopted codes and local amendments.)

3. ORGANIZATIONS AFFECTED

The Office, Planning, Development & Public Works

4. REFERENCES

All Building Codes incorporated into Anchorage Municipal Code Title 23

4. DEFINITIONS

Community - All applicants of active permits, active list of licensed contractors, Anchorage Home Builders Association, Association of General Contractors, Alaska Professional Design Council, Alaska Housing Finance Corporation, local International Conference of Building Officials Inspectors, other Development Services Divisions and Municipal departments and agencies who are part of the permitting process.

6. RESPONSIBILITIES

a. The Office of Planning, Development & Public Works shall:

- (1) Formulate a draft of the new policy, regulation, interpretation or provision.
- (2) Distribute or make the draft available to the community at least 37 days prior to the intended enforcement date.



<b>Subject.</b> <b>Procedure for Changing and Enforcing Codes and policies of the Office of Planning, Development &amp; Public Works</b>	<b>P&amp;P No.</b> <b>48-3</b>	<b>Page 2 of 2</b>
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- (3) Receive and accumulate responses from the community and consider the responses in changing or updating the draft.
- (4) Notify respondents of any changes and updates within four (4) days of the final form.
- (5) Initiate implementation of the new policy, regulation, interpretation or provision not less than seven (7) working days after item (4).

**7. PROCEDURES**

**a. Notify community**

- (1) Notification will be by most reasonable means possible, such as
  - i. Newspapers
  - ii. Newsletter of affected organizations
  - iii. Fax services
  - iv. Home page
  - v. U.S. mail
- (2) Notification will be done as expeditiously as possible. Thirty-day response period will start after notification is achieved.

**b. Review comments**

All comments received within 30 days of written notification will be evaluated, placed into the pending action file for this policy and incorporated as deemed appropriate by the Office of Planning, Development & Public Works.

**c. Issuance of final notice**

- (1) The Building Official will review all comments and prepare a summary.
- (2) After consideration and evaluation of the comments, the Building Official will notify all customers.

**8. ANNUAL REVIEW DATE/LEAD REVIEW AGENCY**

The Office of Planning, Development & Public Works will review this document in August of each year for any needed revisions.





FOR OFFICE USE ONLY

PERMIT NUMBER	LOT	BLOCK	SUBDIVISION
<b>R-3 SINGLE FAMILY, DUPLEX OR LAND USE VALUATION</b>			

R-3 Living Area Sq. Ft.	_____	X	\$110.29	X	1.30	=	_____
Finished Basement Sq. Ft.	_____	X	\$50.00	X		=	_____
Unfinished Basement Sq. Ft.	_____	X	\$15.00	X		=	_____
Garage/ Carport Sq. Ft.	_____	X	\$42.00	X	1.30	=	_____

SUB TOTAL: \_\_\_\_\_



Round sub total to nearest dollar, to get total valuation.

TOTAL VALUATION: \_\_\_\_\_

LAND USE PERMITS

Living Area Sq. Ft.	_____	X	\$0.23	=	_____
Garage Sq. Ft.	_____	X	\$0.23	=	_____

Land Use Permit Fee: \_\_\_\_\_

Address Fee: **\$85.00**

Flood Plan Review **\$45.00**

NPDES/ SWATER **\$300.00**

TOTAL VALUATION: \_\_\_\_\_

FEES

Building Permit Fee: \_\_\_\_\_  
*(\$ .009% Valuation. Up to \$500,000 will receive 23 inspections and for Valuations \$500,001(+) will receive 2 additional inspections per \$100,000)*

Plan Review Fee: \_\_\_\_\_  
*(\$ .005% Valuation with a minimum of \$65)*

Eplan Review Surcharge: \_\_\_\_\_  
*(\$ .0003% of valuation)*

Pre-approved Review Fee: \_\_\_\_\_  
*(\$ .003% Valuation with a minimum of \$65)*

Land Use Review Fee: \_\_\_\_\_  
*(\$ .00063% Valuation with a minimum of \$25)*

STORM-WATER **\$100.00**

Address Fee: **\$85.00**

NPDES **\$200.00**

Flood Plan Review **\$45.00**

Grand Total: \_\_\_\_\_

Cash \_\_\_\_\_

Check # \_\_\_\_\_

Visa/MC \_\_\_\_\_

Receipt # \_\_\_\_\_

Date: \_\_\_\_\_



**Fact 3) Building Official can write Policy as per code:**

**Current Code AMC 2012 (Presently adopted)**

23.10.103.3 Powers and duties of the building official.

23.10.103.3.1 General. The building official is authorized and directed to enforce the provisions of this code, to render interpretations of this code, and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code.

**Adopted Code AMC 2009 (previously adopted and in place for my submittal)**

23.10.103.3 Powers and duties of the building official.

23.10.103.3.1 General. The building official is authorized and directed to enforce the provisions of this code, to render interpretations of this code, and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code.

**Adopted Code AMC 2000 (oldest I had copies of at this time)**

**SECTION 23.10.202 POWERS AND DUTIES OF THE BUILDING OFFICIAL**

23.10.202.1 General. The Building Official is hereby authorized and directed to enforce all the provisions of this code and the referenced technical codes. For such purposes, the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this code and the referenced technical codes and to adopt and enforce rules and regulations supplemental to this code as may be deemed necessary to clarify the application of the provisions of this code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

**Fact 4) Hansen was programmed by staff incorrectly.**

Hansen programmed was programmed with what someone thought was in place. In this case they have been charging every permittee incorrectly for finished and unfinished basements.



**Fact 5)** The valuation was not set arbitrarily by Building Official it was set by many months of review and evaluation by MOA staff and AHBA to try to best evaluate basement construction in Anchorage. The policy was revised no less than 9 times. AHBA and the Administration evaluated it over and over and set the valuations with proper interpretation and methods as the values were never set in national tables. If this policy goes away it will clearly become a controversial issue again with AHBA as it leaves Finished basements again in a undefined manner.

**Fact 6)** Acting Building Official did not have all the information and facts in making his decision. He also did not allow for any further discussion to keep from going to the Building Board. I tried to set up meeting and was told to handle it with the appeal process.

**Fact 7)** It has become clear that the MOA will go back no further than 2 years on refunds to match a state statute. So based upon this I would like the MOA to review and refund all Unfinished and finished basements for the past two years and refund the fees collected in error as per:

23.10.104.15.5 Fee refunds.

A. The building official shall refund a fee that is paid or collected in error.

## **CONCLUSION**

Please refund the Contractors their overpayments for fees paid in error based upon a submittal date of November 16, 2015 going back 2 years until November 16, 2013. Although I only filed for Spinell Homes and Northern Home Builders I believe the MOA should review all permit fees paid for unfinished and finished basements be refunded to all permittees who where charged in error. I believe it is the correct thing to do and I also believe that the policy should not be revised. The policy clarified the problems within the valuation tables. Please also remember in many permit options the valuation is just given by the applicant and not through these tables anyway. Valuations help one calculate the fees but the fees were not revised they were based upon the existance of finished and unfinished valuations at the time they were added.