

EXHIBIT NO. 1

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6-16-07

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6-12-07~~

MEMORANDUM

DATE: JUNE 5, 2007
TO: THE HONORABLE MAYOR
AND MEMBERS OF CITY COUNCIL

FROM: IGNACIO PESSOA *IP/aw*
CITY ATTORNEY

KAREN S. SNOW *KS*
ASSISTANT CITY ATTORNEY

SUBJECT: ORDINANCE TO AMEND CITY CODE TO ALLOW FILING OF APPEALS
TO THE BOARD OF EQUALIZATION AFTER JULY 1 FOR
SUPPLEMENTAL ASSESSMENTS LEVIED ON SUBSTANTIALLY
COMPLETED NEW BUILDINGS

ISSUE: Consideration of an ordinance to revise sections 3-2-185 and 3-2-187 of the City Code to allow appeals of supplemental assessments levied under sections 58.1-3292.1 of the Virginia Code and 3-2-187 of the City Code to be filed with the Board of Equalization after July 1.

RECOMMENDATION: That City Council pass the Ordinance on first reading and schedule it for public hearing, second reading and final passage on Saturday, June 16, 2007.

DISCUSSION: The proposed ordinance would clarify the provision of the City Code which requires that all appeals of real estate tax assessments be filed with the Board of Equalization by July 1 by creating an exception to the July 1 filing deadline for appeals of supplemental assessments which are levied after July 1 for new buildings which are substantially complete or fit for use and occupancy during the tax year.

Under the Virginia Code section 58.1-3292.1 and the City Code section 3-2-187, the City has the authority to assess new construction which becomes substantially completed or fit for use or occupancy during the tax year ("supplemental assessments"). The Department of Real Estate Assessments makes an assessment of real estate for each year as of January 1, and then calculates the percentage of completion of improvements as of that date, i.e. January 1 (Initial Assessment). If the building is "substantially completed or fit for use and regardless of the date of completion," then the City can make a supplemental assessment under Virginia Code § 58,1-3292.1 and 3-2-187 of the City Code. Supplemental assessments allow the imposition of the full value of real property tax due when a building is determined to be substantially complete or fit for use and occupancy after the January 1 valuation date but before the start of the new tax year. In other words, these provisions allow the City to capture tax dollars for construction that becomes substantially complete or fit for use and occupancy during the tax year.

The proposed amendments to the City Code do not result from any changes in the state law regarding appeals of supplemental assessments and in fact are consistent with existing law. The proposed amendments to the City Code clarify existing law, comport with the existing practice of the Department of Real Estate Assessments and are consistent with the Alexandria Circuit Court's recent decision in LCOR Alexandria, LLC. v. City Council of the City of Alexandria, CL 05001411 (Alexandria Circuit Court 2007).

If you have any questions or wish to discuss this further, please call us.

FISCAL IMPACT: None, as this proposed ordinance has been the de facto business practice of the Department of Real Estate Assessments and the Board of Equalization.

ATTACHMENT: Proposed ordinance

cc: James K. Hartmann
City Manager

Michele Evans
Deputy City Manager

Jacqueline M. Henderson
City Clerk

Introduction and first reading:	06/12/07
Public hearing:	06/16/07
Second reading and enactment:	06/16/07

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Sections 3-2-185 (APPEAL OF REAL ESTATE ASSESSMENTS) and 3-2-187 (ASSESSMENT OF NEW BUILDINGS SUBSTANTIALLY COMPLETED) of DIVISION 1 (REAL ESTATE), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), of Chapter 2 (TAXATION), of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance would amend sections 3-2-185 and 3-2-187 of the City Code to allow appeals to be filed with the Board of Equalization after July 1, of supplemental real estate tax assessments levied on substantially completed new buildings.

Sponsor

Cynthia Smith-Page, Director, Department of Real Estate Assessments

Staff

Karen S. Snow, Assistant City Attorney

Authority

Virginia Code, § 58.1-3378
Alexandria City Charter § 4.08(d)

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Sections 3-2-185 (APPEAL OF REAL ESTATE ASSESSMENTS TO BOARD OF EQUALIZATION) and 3-2-187 (ASSESSMENT OF NEW BUILDINGS SUBSTANTIALLY COMPLETED) of Division 1 (REAL ESTATE), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), of Chapter 2 (TAXATION), of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Division 1 (Real Estate), of Article M (Levy and Collection of Property Taxes), of Chapter 2 (Taxation), of Title 3 (Finance, Taxation and Procurement), of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting amended Sections 3-2-185 and 3-2-187 to read as follows:

Sec. 3-2-185 Appeal of real estate tax assessments to board of equalization.

(a) Any owner or lessee of real estate upon which taxes have been levied as provided by section 3-2-181 of this code who seeks to appeal such assessment shall make application to the board of equalization of the city to correct the assessed valuation on which the taxes were levied upon such real estate, provided any such application is made in writing and filed with the director of real estate assessments or presented to a member of the board of equalization by July 1 of the year in which the taxes are levied with the exception of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia, 1950, as amended and section 3-2-187 of this code, or if the assessment is otherwise changed by the director during the tax year subsequent to July 1.

(b) Appeals of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia (1950), as amended, and section 3-2-187 of this code, shall be filed with the board of equalization within forty-five days after the notice of assessment is issued.

(c) An appeal from the board of equalization's determination of the appeal may be made to the Circuit Court of the City of Alexandria as provided in the Code of Virginia. Hearing before the board of equalization is a prerequisite to filing of an appeal in that court.

Sec. 3-2-187 Supplemental assessment of new buildings substantially completed.

(a) All new buildings shall be taxed upon the completed portion of the building, which was not complete on January 1 of the year in which taxes are levied, when substantially completed or fit for use and occupancy, regardless of the date of completion or fitness during the tax year, and the director of real estate assessments shall enter in the books the fair full market value of such building.

1 (b) No partial, supplemental assessment as provided herein shall become effective until
2 information as to the date and amount of such assessment is recorded in the department of real
3 estate assessments and made available for public inspection. The total tax on any such new
4 building for that year shall be the sum of (i) the tax upon the assessment of the completed
5 building, computed according to the ratio which the portion of the year such building is
6 substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon
7 the assessment of such new building as it existed on January 1 of that assessment year, computed
8 according to the ratio which the portion of the year such building was not substantially complete
9 or fit for use and occupancy bears to the entire year.

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11 (c) With respect to any supplemental assessment made under this section after November 1
12 of any year, no penalty for nonpayment shall be imposed until the last to occur of (i) December 5
13 of such year or (ii) 30 days following the date of the official billing.

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15 (d) Appeals to the board of equalization of supplemental assessments levied under this
16 section after July 1 shall be filed in accordance with section 3-2-185.

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18 Section 2. That this ordinance shall become effective upon the date and at the time
19 of its final passage.

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21
22 WILLIAM D. EUILLE
23 Mayor

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25 Introduction: 6/12/07
26 First Reading:
27 Publication:
28 Public Hearing:
29 Second Reading:
30 Final Passage:
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ORDINANCE NO. 4490

AN ORDINANCE to amend and reordain Sections 3-2-185 (APPEAL OF REAL ESTATE ASSESSMENTS TO BOARD OF EQUALIZATION) and 3-2-187 (ASSESSMENT OF NEW BUILDINGS SUBSTANTIALLY COMPLETED) of Division 1 (REAL ESTATE), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), of Chapter 2 (TAXATION), of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of the Code of the City of Alexandria, Virginia, 1981, as amended.

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Sec. 3-2-185 Appeal of real estate tax assessments to board of equalization.

(a) Any owner or lessee of real estate upon which taxes have been levied as provided by section 3-2-181 of this code who seeks to appeal such assessment shall make application to the board of equalization of the city to correct the assessed valuation on which the taxes were levied upon such real estate, provided any such application is made in writing and filed with the director of real estate assessments or presented to a member of the board of equalization by July 1 of the year in which the taxes are levied with the exception of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia, 1950, as amended and section 3-2-187 of this code, or if the assessment is otherwise changed by the director during the tax year subsequent to July 1.

(b) Appeals of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia (1950), as amended, and section 3-2-187 of this code, shall be filed with the board of equalization within forty-five days after the notice of assessment is issued.

(c) An appeal from the board of equalization's determination of the appeal may be made to the Circuit Court of the City of Alexandria as provided in the Code of Virginia. Hearing before the board of equalization is a prerequisite to filing of an appeal in that court.

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(b) No partial, supplemental assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the department of real estate assessments and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year.

(c) With respect to any supplemental assessment made under this section after November 1 of any year, no penalty for nonpayment shall be imposed until the last to occur of (i) December 5 of such year or (ii) 30 days following the date of the official billing.

(d) Appeals to the board of equalization of supplemental assessments levied under this section after July 1 shall be filed in accordance with section 3-2-185.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Final Passage: June 16, 2007

22-28
6-16-07

MOTION FOR FINAL PASSAGE OF ORDINANCE DOCKET ITEMS
22, 23, 24, 25, 26, 27 and 28:

Mr. Mayor, there being no public hearing speakers, I move that City Council approve and adopt on second reading and final passage Ordinance Docket items 22, 23, 24, 25, 26, 27 and 28.

ROLL CALL VOTE