

SUPREME COURT OF ALASKA

Alvarez v. Ketchikan Gateway Borough

28 P.3d 935 (Alaska 2001) · No. S-9030 · Decided August 17, 2001

SUMMARY

The Supreme Court of Alaska reviewed a property-tax assessment appeal involving three properties owned by Sonja Alvarez. The court affirmed the superior court's denial of a motion to supplement the administrative record, held that the Board of Equalization's failure to make explicit factual findings was harmless because the record disclosed its reasoning, and affirmed the denial of Alvarez's petition for rehearing.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Alaska                                                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Fabe, Chief Justice; Matthews, Justice; Eastaugh, Justice; Bryner, Justice; Carpeneti, Justice                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Alaska                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | August 17, 2001                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | S-9030                                                                                                                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Appeal from the superior court's affirmance of decisions by the Ketchikan Gateway Borough Board of Equalization upholding property tax assessments and denial of a motion to supplement the administrative record and a petition for rehearing.                                                                                                                     |
| STANDARD OF REVIEW    | The denial of a motion to supplement the record and the denial of a petition for rehearing are reviewed for abuse of discretion. The sufficiency of an administrative board's factual findings to permit meaningful appellate review is a legal question reviewed independently, without deference to the superior court acting as an intermediate appellate court. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Alaska                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Sonja Alvarez v. Ketchikan Gateway Borough                                                                                                                                                                                                                                                                                                                          |

TOPICS

property tax

administrative law

appellate procedure

standard of review

harmless error

## PRACTICE AREAS

property taxation

administrative law

appellate procedure

municipal law

## QUESTIONS PRESENTED

1. Whether the appeal to the Alaska Supreme Court was timely and whether the court had jurisdiction.
2. Whether the superior court properly denied Alvarez's motion to supplement the record with the borough assessor's complete files.
3. Whether the Board of Equalization's failure to issue explicit factual findings required reversal or instead constituted harmless error.
4. Whether the superior court properly denied Alvarez's petition for rehearing as untimely.

## HOLDINGS

1. The court declined to address the Borough's argument that Alvarez's appeal was untimely because the argument was raised only in passing in the jurisdictional statement and was not briefed on appeal.
2. The superior court properly denied Alvarez's motion to supplement the record because the record already contained all materials submitted to or considered by the Board of Equalization.
3. Although the Board violated the applicable requirement to issue specific factual findings, its failure was harmless because the record adequately disclosed the basis for its decision and showed how it resolved the parties' material disputes.
4. The court did not need to decide whether Alvarez's petition for rehearing was timely because the petition could not succeed on its merits even if timely.

## KEY QUOTATIONS

*"the threshold question"* (28 P.3d at 941)

*"whether the record sufficiently reflects the basis for the [board's] decision so as to enable meaningful judicial review"* (28 P.3d at 941)

*"The test of sufficiency is ... a functional one: do the [board's] findings facilitate this court's review, assist the parties and restrain the [board] within proper bounds?"* (28 P.3d at 941)

*"Unlike in Faulk, however, the failure here to make any explicit factual findings is harmless."* (28 P.3d at 942)

## FACTUAL BACKGROUND

Alvarez owned two adjacent unimproved lots and a residential property in Ketchikan. For 1997, the borough assessor valued the lots at \$30,000 and \$30,600 and the residential property at \$196,600; Alvarez disputed the valuations based on a purchase offer, the closure of a nearby timber mill, alleged assessment errors, unusable property features, and a neighboring encroachment. The Board of Equalization affirmed each assessment after

hearings in which the parties and Board discussed the disputed valuation issues, although the Board issued no explicit written factual findings.

## PROCEDURAL HISTORY

Alvarez appealed the 1997 assessments of three properties to the Ketchikan Gateway Borough Board of Equalization, which affirmed all three assessments. She appealed to the superior court, moved to supplement the record with the assessor's complete files, and challenged the Board's findings. The superior court denied supplementation, affirmed the Board, and denied Alvarez's petition for rehearing as untimely. The Alaska Supreme Court affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Balough v. Fairbanks North Star Borough, 995 P.2d 245, 254-55 (Alaska 2000)
- Harrelson v. Harrelson, 932 P.2d 247, 250 (Alaska 1997)
- Faulk v. Board of Equalization, 934 P.2d 750, 751-52 (Alaska 1997)
- Ayele v. Unisea, Inc., 980 P.2d 955, 957 n.2, 957-58 (Alaska 1999)
- In re Dissolution of Marriage of Alaback, 997 P.2d 1181, 1184 n.3 (Alaska 2000)
- Cool Homes, Inc. v. Fairbanks North Star Borough, 860 P.2d 1248, 1266-67 (Alaska 1993)
- Southwest Marine, Inc. v. State, Dep't of Transp. & Pub. Facilities, 941 P.2d 166, 179-81 (Alaska 1997)
- Oceanview Homeowners Ass'n v. Quadrant Constr. & Eng'g, 680 P.2d 793, 798-99 (Alaska 1984)
- Interior Paint Co. v. Rodgers, 522 P.2d 164, 169 (Alaska 1974)
- South Anchorage Concerned Coalition, Inc. v. Coffey, 862 P.2d 168, 175 (Alaska 1993)
- Fields v. Kodiak City Council, 628 P.2d 927, 932-34 (Alaska 1981)
- Stephens v. ITT/Felec Servs., 915 P.2d 620, 627 (Alaska 1996)
- White v. Alaska Commercial Fisheries Entry Comm'n, 678 P.2d 1319, 1322 (Alaska 1984)
- Hewing v. Alaska Workmen's Compensation Bd., 512 P.2d 896, 898-900 (Alaska 1973)
- Carlson v. Doyon Universal-Ogden Servs., 995 P.2d 224, 230 (Alaska 2000)
- Childs v. Tulin, 799 P.2d 1338, 1341 (Alaska 1990)

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