

**PROCEDURES FOR APPEAL OF THE FISCAL YEAR 2009-2010
ISLAMORADA, VILLAGE OF ISLANDS WASTEWATER ASSESSMENT**

1. Appeal Deadlines

The deadline for an Appeal of the Fiscal Year 2009-2010 wastewater assessment based on Unity of Title is October 15, 2009. The deadline for the initial period for Appeals based on other factors is October 15, 2009. Any appeals filed after this initial period will be accepted and processed, but any adjustments which are granted may not appear on the November 2009 property tax bill.

If the owner elects to prepay their wastewater assessment and subsequently is granted an adjustment as a result of an Appeal, the difference between the adjusted assessment and the prepaid amount will be reimbursed, without any interest and less any non-refundable finance or administrative charges.

2. Basis of Appeal

An Appeal may be appropriate for a number of reasons, as outlined below:

a) Residential Properties

Since the assessments for residential units are not based on water meter data, how much water you use does not affect your assessment. It is based on the number of properties you own and the number of dwelling units you own. Your assessment is not higher due to irrigation or other water uses.

1. Vacant Parcels

If you own multiple adjoining lots and have been assessed for each of those lots, even though one or more is vacant, you may be able to reduce your assessment by combining the lots under a Unity of Title, in a form created and approved by the Village Attorney, which may restrict development of the vacant parcel. If you wish to appeal your assessment on this basis, check the "Unity of Title" box on the Appeal Form.

If an appeal is granted on this basis, you will be notified and will be required to pay an administrative fee of \$75 for the Village to prepare the Unity of Title and to review any other requested supplemental information (Opinion of title, deed, etc). In order to apply the Unity of Title to the 2009 assessment, you are required to execute and record the approved Unity of Title and provide any additional documents required by the Village Attorney.

2. Misclassification

You may also appeal your assessment if you believe that the property you own has been misclassified. If you believe this to be the case, you should check the "Other" box. Appeals based on the contention that the lot is unbuildable by virtue of size or other factors should be accompanied by any available documentation in support of that contention. These Appeals will be addressed by

the Assessment Review Panel on a case by case basis, with input from the Village's Planning Director and Building Department.

b) Non Residential/Other Property Classes

Other classes of properties, such as commercial properties, hotels, commercial condominiums, apartments and RV Parks, are assessed based on their historical water use, industry standards or engineering judgment. If your property currently has a wastewater treatment plant, you may have wastewater flow information from that facility. This wastewater flow information will not be used in place of water use data. The Village is using water use records only for calculating assessments since everyone has a water meter. Water use is used as a proxy to determine the wastewater flow. The calculations used already take into account that only a portion of the water used becomes wastewater. Property classes other than Residential may appeal an assessment by challenging the water use records. On the appeal form there are boxes to check for "Excessive Use" and for "Irrigation".

1. Excessive Use

If you have had a problem with your plumbing, such as a broken pipe, that caused you to have high water bills for a short period of time, you can appeal your assessment by checking the "Excessive Use" box. You will need to attach documentation in the form of water bills showing your normal water use before and after the leak. You will also need to describe the plumbing problem, how and when it was repaired, and if possible, attach a copy of the repair bill from the plumber.

2. Irrigation

If you use water that you believe will not enter the sewer system, you can appeal your assessment by checking the "Irrigation" box. Use this box even if the water use is for boat washing, ice production or other non-irrigation uses that do not enter the wastewater system. You will need to attach information regarding your irrigation meter including copies of the past 12 months of water bills for that meter. If you do not currently have an irrigation meter, but believe that you could reduce your assessment by having one installed, you should contact the FKAA and request an irrigation meter. After you have collected 12 months of irrigation flow data, your assessment will be adjusted.

3. Filing Your Appeal

The Appeal must be delivered or mailed to the Village's Finance Director. Upon receipt, the Finance Director will log in the Appeal. The mailing information for the Finance Director is as follows:

Islamorada, Village of Islands
Attn: Finance Director
P.O. Box 568 (USPS)
81990 Overseas Hwy, 2nd Floor (physical)
Islamorada, FL 33036

The upper portion of the attached Assessment Appeal Form must be filled out completely. It is very important for the Parcel Number, FKAA Billing Account Number and other information to be accurate. It must match the information on your Assessment notification. You must also provide copies of your water bills for the period in question if your Appeal is based on water use history.

4. Assessment Appeal Review Panel

The Village's staff Assessment Appeal Review Panel will review the Appeal and issue a recommended decision to the Village Manager. Prior to issuing the recommended decision, the Assessment Review Panel may request one (1) or more informal discussions with the owner, and may request additional information and supplemental documentation.

5. Village Manager Review

Upon issuance of the recommended decision by the Assessment Review Panel, the Finance Director will transmit the recommended decision to the Village Manager for final action within thirty (30) days after issuance. The Village Manager may elect to either accept or modify the decision recommended by the Assessment Review Panel. If the Village Manager concludes that there are disputed issues of material fact, the Village Manager may schedule a meeting with the property owner to further review the Appeal or may request additional information. After due consideration, the Village Manager will issue a notice to the owner rendering a decision on the Appeal.

6. Village Council Appeal

- a) An owner may appeal the decision of the Village Manager to the Village Council. The Appeal shall be initiated within 30 days of the date of receipt of the decision by filing an application with the Finance Director in a form provided by the Village. The appeal shall be accompanied by an application fee established by the Village Manager. Failure to file an appeal within the timeframe specified, and exhaust all administrative remedies provided for in this procedure, shall constitute a waiver of all rights to appeal any determination made by the Village.
- b) The public hearing on the Appeal shall be scheduled for the first available Village Council meeting upon completion of the Finance Department's review and evaluation of the application or such time as is mutually agreed upon between the Applicant and the Finance Director. The Village Council may grant a continuance upon good cause shown. The Applicant may withdraw the Appeal at any time.
- c) At the public hearing, the Village Council shall consider the Appeal, the relevant supporting materials, the Village Manager's decision, and testimony given at the hearing. If at any time during the public hearing the Village Council determines that the Appeal is based upon incomplete or inaccurate information or misstatements of fact, it may deny the Appeal or refer the application back to the Finance Director for further review and revised recommendations. The Village Council in reviewing the Appeal shall presume the original decision of the Village Manager was correct and shall only overturn such decision where there has been a finding of an error of fact or law in the decision of the Village Manager.

- d)** The Village Council in reviewing the Appeal shall presume that the decision of the Village Manager was correct and shall only overturn the decision if the Village Council makes a finding that there was an error of fact or law in the decision of the Village Manager.
- e)** At the close of the public hearing, the Village Council, by not less than a majority of a quorum present, shall by resolution, grant, grant with conditions, or deny the Appeal.