



Chapter 14:
**Boards of Equalization
& Appeals**

Jessica Westenhiser
Appeals & Levies Specialist

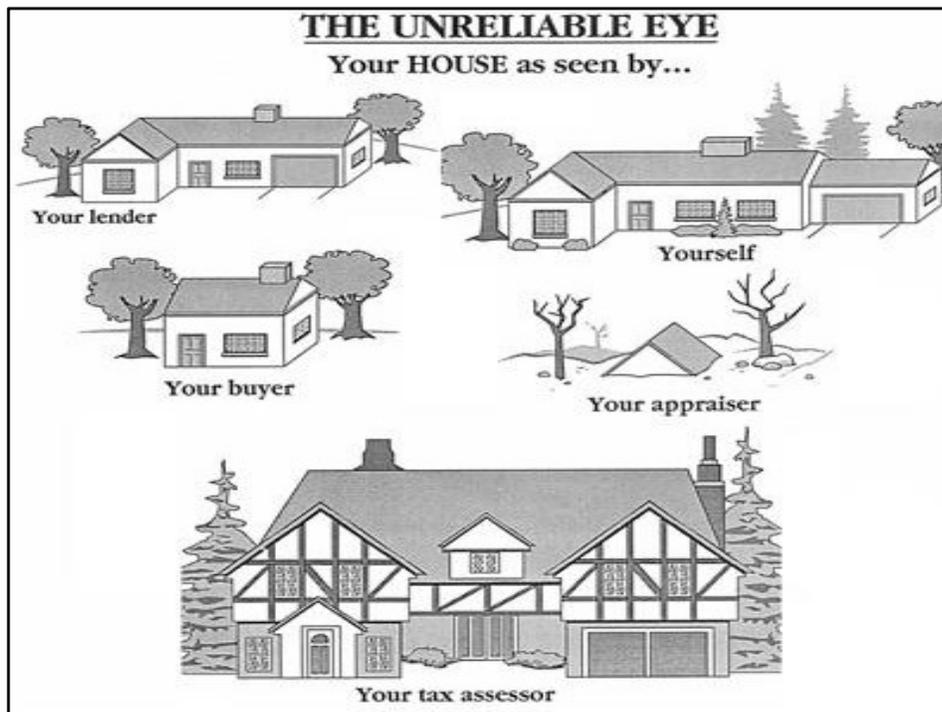
1

Jessica Westenhiser: 360.534.1380
Jessicaw2@dor.wa.gov



The Department:

- Exercises general supervision through a robust audit program.
- Reviews the BOE's practices and ensures compliance.
- Answers questions from BOEs, taxpayers, and assessor's.
- Provide trainings (Basic and Senior BOE member training and New Clerk training)
- Created & Maintain the Operating Manual for BOEs (this and other forms are available on PTRC)
- Write Rules (available on leg.wa.gov) and Decide Questions of Interpretation (RCW 84.08.080)
- Reconvene the BOE (WAC 458-14-127)



When a taxpayer brings in their valuation:

- Follow your local policies for review, the appeal process is an opportunity to correct any mistakes.
- Don't confuse the taxpayer's right to appeal to BOE.
- Don't be discouraged by a difficult taxpayer.

Some common reasons for disagreement:

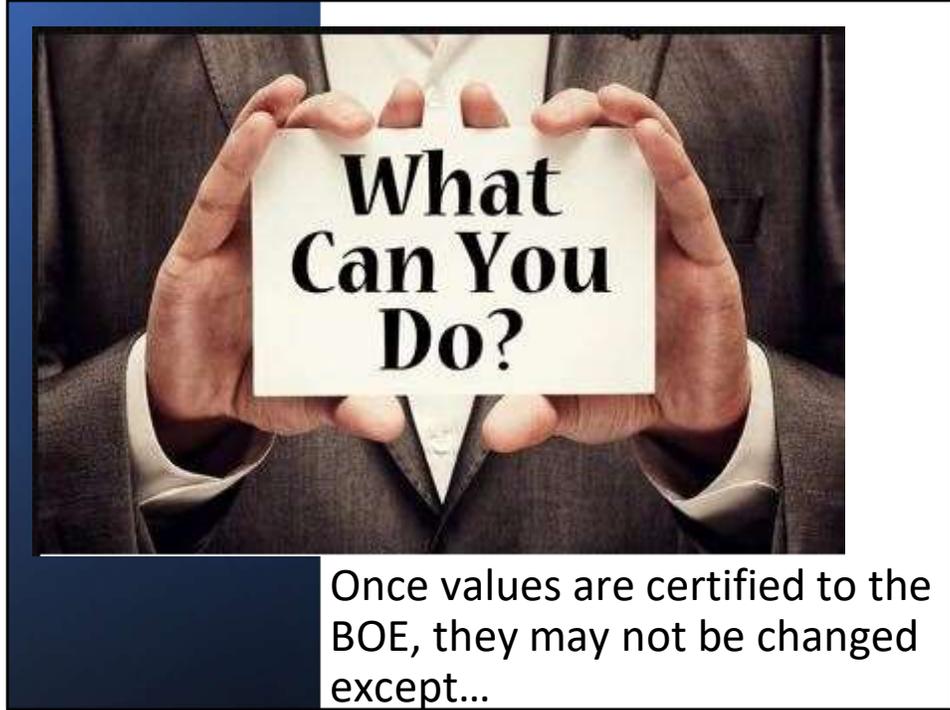
- Different description for the subject.
- Appraising different interests.
- One or both parties are looking at the wrong data.
- The appellant doesn't understand valuation, tax law, and/or case precedents.

Ask yourself:

- Is our data correct?
- Does the supplied data look reasonable?

The best way to respond effectively is through education, most taxpayers just do not know:

- Teach taxpayers and hearing officers about the interest we are required to assess.
- Discuss the differences in data with an open mind and fix mistakes when possible.
- Help them understand the appraisal process, tax law, and case precedents.
- Walk taxpayers through your processes to give them a better understanding.



Once values are certified to the BOE, they may not be changed except...

1. **A Manifest error** *RCW 84.48.065(1)(a)*:
These do not involve appraisal judgment and are usually errors in description, double assessments, or clerical errors in extending the rolls.
2. **Stipulated value agreements** *WAC 458-14-026*:
The assessor and taxpayer agree on a value and may stipulate if:
 - The assessment roll has been certified to the BOE, a timely petition has been filed, and no hearing has been held.
 - The stipulation must outline the information used to establish the value and once submitted to the BOE the appeal is automatically withdrawn.
3. **Destroyed property claim** *RCW 84.70.010*:
 - Can be in whole or part; or
 - Be in an area that has been declared a disaster area by the Governor or the CLA; and
 - Was reduced in value by 20% or more.
4. **Exemption status**
The assessor may adjust the exemption status of property with respect to:
 - Senior citizen exemptions,
 - A sale to or by a government entity, or
 - Physical improvements to single family dwellings.

The following are statutorily required adjustments that don't require board action *WAC 458-14-025*:

- (a) Change of tax status due to sale to or by a public entity;
- (d) Removal, addition, or change of status of forest land designation;
- (f) Removal, addition, or change of status of a special valuation assessment (RCW 84.14 & 84.26);
- (h) Change of status of property determined to be exempt by the Department;

- (i) Exemption of a nightclub sprinkler system (RCW 84.36.660);
- (j) Valuation reduction after an adoption of a government restriction (RCW 84.40.039).



Quasi-judicial proceedings where boards are tasked with providing an impartial hearing environment that protects due process rights and results in a fair decision.

Elements of Due Process

The right to have or be given:

1. A notice (of a hearing),
2. An opportunity to know the claims of the opposing party,
3. The opportunity to be heard so to appear and present evidence,
4. A Reasonable time to prepare one's case,
5. To have an orderly proceeding,
6. The right to a cross examination and to present rebuttal evidence,
7. The right to an impartial tribunal and
8. The right to a reasoned decision.

Avenues for administrative appeals:

Boards of Equalization: Independent bodies that process and hear appeals of various county assessor determinations and equalize property values.

BTA: A state-level administrative forum for citizens and businesses to dispute the correctness and legality of their tax liability.

Board of Equalization

Independent local bodies that hear appeals of determinations made by the county assessor's office



- Must be at least three members with up to four alternates.
- The BOE Members are frequently volunteers and serve 3-year terms.
- They're appointed by the Board of County Commissioners.

Regularly convened session, statutorily mandated 28-day period with 3 required meetings commencing on either:

1. July 15th or,
2. Within 14 days after the roll is certified to the BOE. (SSB 5133 July 23 17)

Duties:

- Establish market value through hearing petitions of assessor valuations and equalization.
- The Board must adhere to and apply the correct Burden of Proof:
 - Clear Cogent & Convincing vs. Preponderance of the Evidence.
- They must maintain a fair and impartial forum that's just and unbiased:
 - This is an adversarial process and the Board must stay neutral, they do not take sides nor advocate for a position.
 - Must maintain independence & appearances to maintain public confidence in the appeals system.
- Avoid conflicts of interest:

- Any member should disclose a conflict prior to a hearing.
- May recuse themselves.

- Avoid ex parte contact:
 - Any discussions related to a case with only one party present

- Must render a reasoned decision:
 - It needs to explain why, on what facts, and on which laws the decision is based; this process is mandatory.

Jurisdiction

When a property owner timely disputes a determination of the assessor, the BOE must hear the appeal and render a decision.



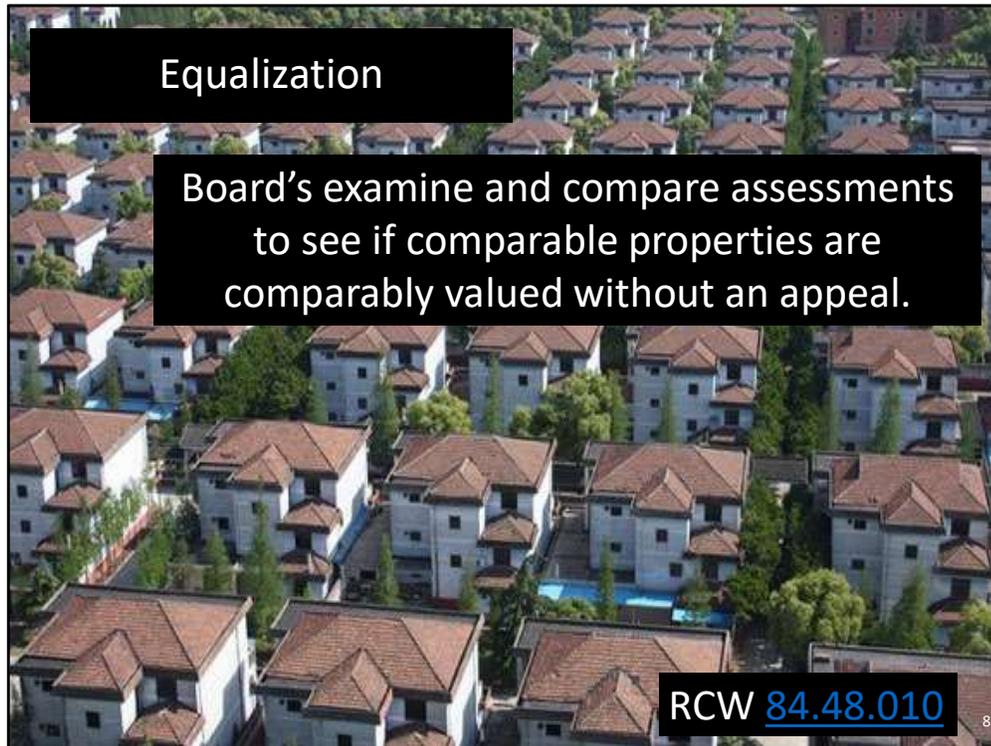
The board's jurisdiction involves appeals of Assessor determinations, including:

- Change in real and personal property values [RCW 84.48.010],
 - There is no provision in state law to directly appeal property taxes
- Denials of senior citizen/disable persons exemptions [RCW 84.36.385],
- Denials of home improvement exemptions [RCW 84.36.400],
- Decisions regarding historic property [RCW 84.26.130],
- Forest land classification determinations [RCW 84.33],
- Current use determinations [RCW 84.34],
- Destroyed property determinations [RCW 84.70.010],
- Claims for either real or personal property tax exemptions [RCW 84.36.010].

What cannot be appealed to the BOE:

- Timberland application denial
- Denial of an open space land application

These are directly appealed to Superior Court.



The Board's:

- Have this authority on their own motion during their regular 28-day session of the current assessment year.
- May be reconvened by the Department to perform equalization duties of prior assessment years (up to 3 years prior).

Equalization may be triggered when...

- A pattern of appeals indicate there may be inequality within a group or class of properties.
- An individual or group of taxpayers may call or write about their assessed value as compared to similar properties.
- The assessor may propose equalization to the board.
- Any discrepancies or potential errors on the assessment roll (appeals of other properties may point to potential discrepancies).
- Board investigation to determine if there are legitimate reasons for value differences between appealed properties and similar properties.

The only method for appealing a county assessor's determination to the county BOE, is by a **properly completed** and **timely filed** taxpayer petition.



YOU SHALL NOT PASS!

RCW [84.40.038](#) & WAC [458-14-056](#)

1. A complete petition must be filed with the board by:
 - July 1st of the assessment year, or 30 - 60 days (depending on the county) after the COV notice was mailed.
 - Any petitions filed after July 1st, MUST have a copy of the COV notice attached.
 - When a petition is untimely the taxpayer is notified in writing the petition has been dismissed.

Filing deadlines (WAC 458-14-056):

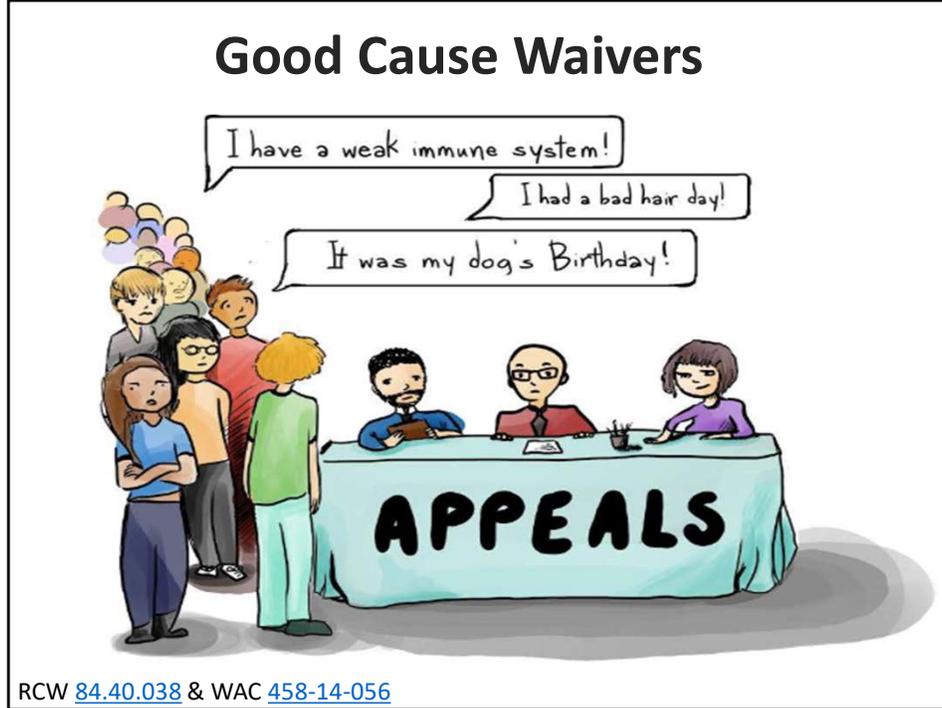
2. Complete petitions must contain:
 - Answers to all relevant questions on the petition form,
 - #1-5 for property valuation appeals are required.
 - Sufficient information to inform the board and assessor of the reasons for the appeal.

Petitions are not required to contain the documentary evidence the taxpayer may present to be considered complete.

(WAC 458-14-056(5))

3. Incomplete petitions:
 - Returned with a letter requesting the missing information and a deadline for completing or correcting the petition.
 - Non-compliance results in a dismissal of the petition that is appealable to the BTA.

- Some examples of incomplete petitions are:
 - A petition form that doesn't include the COV notice (this is required if filed after July 1st).
 - Petitions that *only* contain statements such as:
 - “*The Assessor's value is too high.*”
 - “*The property taxes are excessive.*”



Good cause waivers allow a late filing under specific exceptions, these decisions are final and not appealable to the BTA.

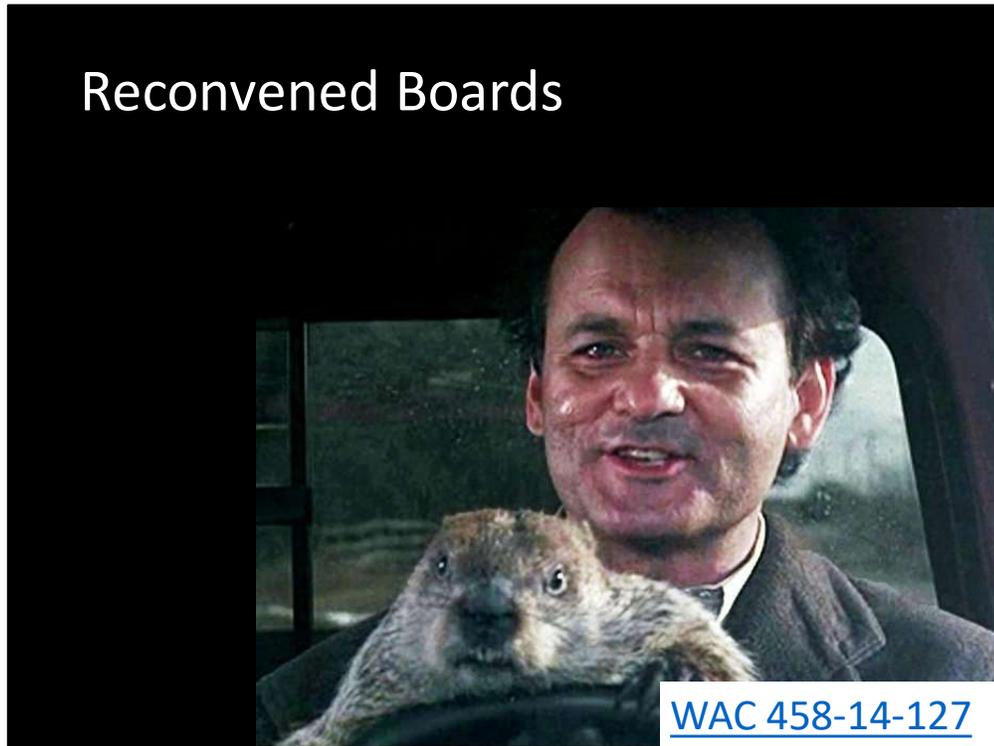
The filing deadline for petitions **must** be waived when:

- The taxpayer was not sent a valuation notice for the current assessment year; AND
 - The taxpayer's property value did not change from the previous year; AND
 - The taxpayer's property is located in an area revalued annually (which all parcels currently qualify);
- AND
- The request is made within a reasonable time.

The filing deadline for petitions **may** be waived due to:

- Death or serious illness of taxpayer or family member;
- Taxpayer was absent from home 15 of 30 days preceding the deadline;
- Relying on misleading written advice from the BOE or Assessor;
- Natural disaster;
- Postal Service delay or loss.

Reconvened Boards



Limited to 3 years after the last day of their **regular convened session** (RCW 84.08.060 & WAC 458-14-127).

Boards may reconvene on their own authority to hold hearings on current year assessments when:

1. A request is received by April 30th and/or:
 - a. A taxpayer submits an affidavit certifying a COV notice was not received 15 days prior to the petition deadline & the value **did** change, or
 - b. The Assessor attests they were unaware of facts that materially affected value and recommends a different value. **This is wholly at the discretion of the assessor.**
 - c. In an arm's length transaction, a purchaser acquired an interest in the property between July 1st-Dec 31st with a sale price of 90% or less of the assessed value, or
 - d. All the following occur:
 - A taxpayer has a timely appeal pending for property subsequently revalued between the filing of the appeal and the board's decision, *and*
 - The value did not change in the intervening year(s), *and*
 - No appeal was filed for the intervening year(s), *and*
 - The request is made within 30 days of the board's decision.
2. Boards may also reconvene within 30 - 60 days, depending on the county, from a request by the taxpayer or assessor for omitted property.
 - This is limited to 3 years preceding the year of discovery.

The Department may also order boards to reconvene for:

1. Prima Facie “on the face of it” showing of actual fraud by the taxpayer or assessor, *or*
2. The property is overvalued by at least double; the Department’s preferred criteria to demonstrate this is by:
 - Market value determinations as contained in orders from the BOE or the BTA;
 - Stipulated market value agreements between taxpayers and assessors;
 - Market-based evidence of market value, i.e., an arms length transaction with a market value appraisal.

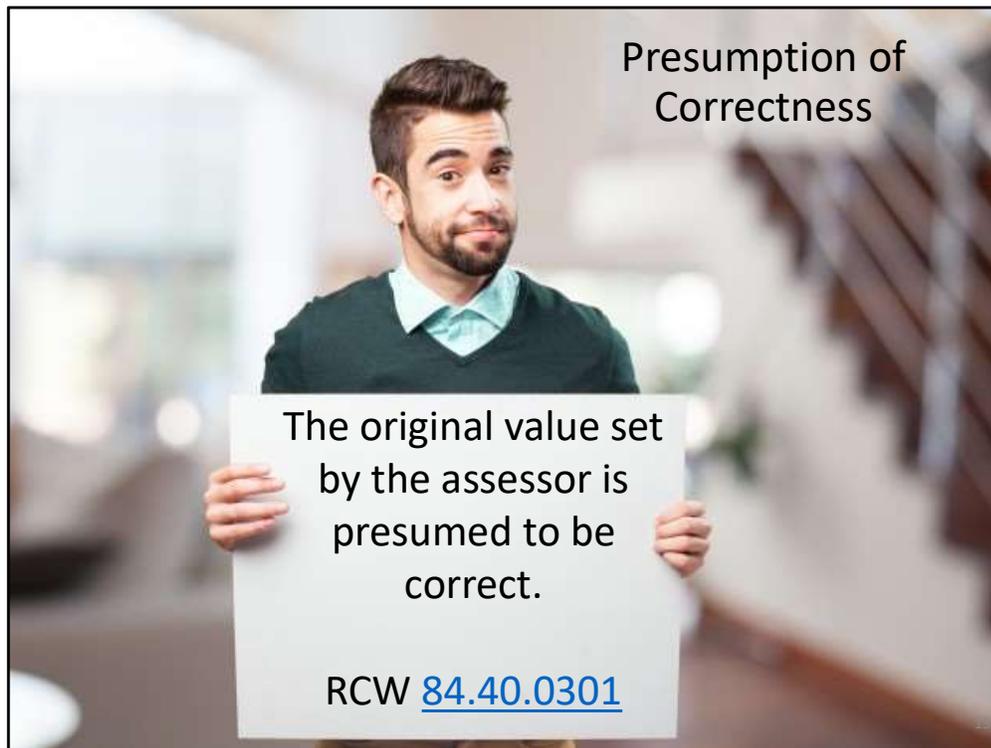
Reconvene requests are made to the local BOE.



Timely & complete petitions are processed by the clerk who then provides the assessor with the accepted petitions, including all attachments and evidence initially filed with the petition.

When requested, usually that checkbox on the petition will be marked

- the assessor must make available or provide taxpayers with the information used to value property *within 60 days of the request* but at least 21 business days prior to a hearing.



The assessor enjoys a presumption of correctness in valuation appeals and the statute requires clear, cogent, and convincing evidence to overcome this.

The appellant disputing the value must provide the Board with sufficient evidence to show it is highly probable the assessor's value is incorrect.

The clear, cogent, and convincing evidence standard shifts to a preponderance of the evidence when:

- Values have been corrected;
- Valuation methods have been invalidated; or

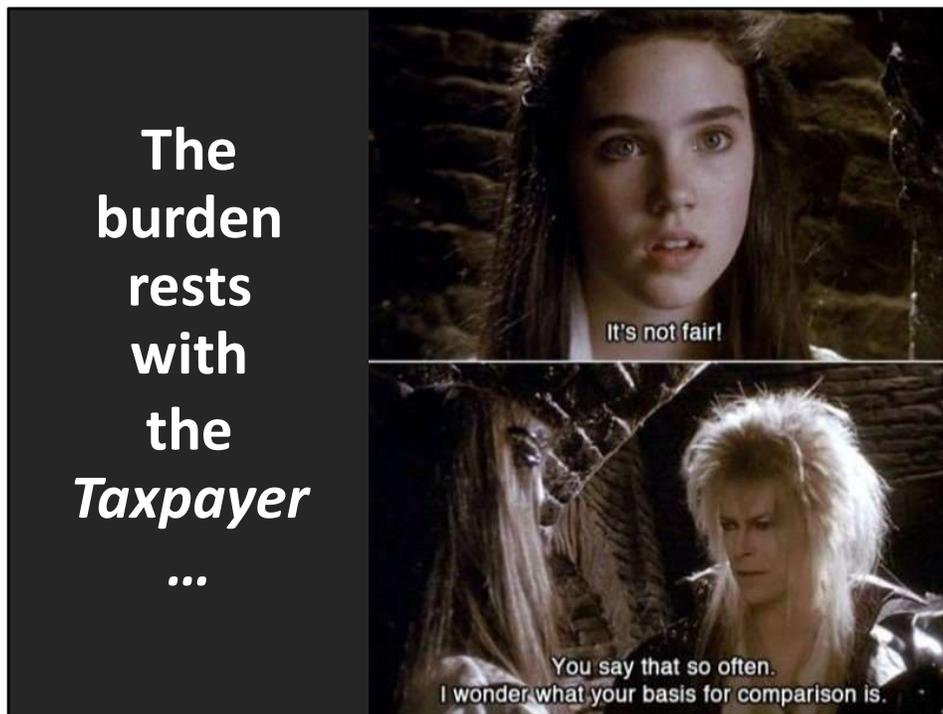
- The issue before the Board is not a valuation issue.

The standard of proof also shifts to the preponderance of the evidence when the assessor **admits error** with respect to a particular factual valuation judgment. This admission constitutes clear, cogent, and convincing evidence that the assessment is flawed, and the statutory presumption of correctness afforded the assessor's original value is no longer applicable.

Examples:

The taxpayer provides clear, cogent, and convincing evidence that an element of the income approach (such as the capitalization rate) is incorrect.

If the assessor has valued a house at \$75,000, and the taxpayer has several recent arm's-length sales of similar houses in the same area clearly showing the house is worth only \$70,000, then the taxpayer has met his or her burden of proof to overcome the assessor's presumption and has additionally shown the true and fair value of the house.



The standard of proof to overcome an assessor's presumption is not easy.

The taxpayer must show that it is "highly probable" the assessor made an error with clear, cogent, and convincing evidence.

This is a greater standard than more probable than not. Facts are clear, positive, and unequivocal in their implication.

- This is the standard of proof needed to terminate parental rights in a child abuse case.

If the taxpayer overcomes the presumption the standard of proof shifts to a preponderance of the evidence.

This standard is more probable than not. It requires at least 50% + 1, so the greater weight or amount of evidence.

- Picture a scale. Both sides, each fill one side with all of their evidence. Whichever way the scale tips is the side that wins.
- This is the standard of proof needed to recover vehicle damages at a civil trial.

Burden of Proof (RCW 84.40.0301)

Evidence is, all the means by which a fact is established or disproved.

Facts

- A statement that is true.
- A fact can be tested and proven.
- Examples of facts:
 - The sun is hot
 - B is the second letter in the alphabet
 - Friday is the day after Thursday



Opinions

- Someone's feelings or beliefs about a topic.
- Cannot be proven true or false.
- Key words associated with opinions:
 - Believe
 - Think
 - Should



The Board considers and evaluates the relevance of the presented evidence and testimony. Relevant evidence makes facts more or less probable when used as part of a determination.

Either party may present both evidence and/or arguments to persuade the Board:

- The assessor must provide any new evidence to the board and taxpayer at least 21 business days prior to a hearing.
- Taxpayers must provide their valuation evidence to the board and assessor at least 21 business days prior to a hearing.

Relevant evidence may include comparable sales data, cost data, income data, maps, or photos.

- Case law, statutes, and rules are general principles not evidence.



- Remember who your audience is, what do they know about the issue at hand.
- Your reasoning doesn't have to be complicated to be right
- Listeners who do not share your knowledge have no real interest in the details of how the process works.

Rebut what evidence the taxpayer has submitted.

- You can rest on your presumption of correctness, however, it's recommended to appear at the hearing.

Evidence (WAC 458-14-066)

Withdrawals & Stipulations



WAC [458-14-076](#) & RCW [84.48.065](#)

1. The Assessor may review the property valuation and reach an agreement (stipulate) with a taxpayer if all of the following occur:
 1. The assessment roll has been certified, and
 2. The taxpayer has filed a timely petition, and
 3. The appeal *has not been heard* by the board.
 - Signed stipulations that are filed with the board, constitute a withdrawal.

The stipulation must:

1. Outline the information used to establish the value, and
 2. Contain both parties signatures.
-
2. Taxpayers may withdraw their petition when:
 - The request is made in writing (email is acceptable),
 - The request is submitted no later than 2 days prior to a hearing, unless the board allows a later withdrawal.

The board must notify the Assessor of the withdrawal.

Stipulations (WAC 458-14-026)

Withdrawals (WAC 458-14-076)



In a typical hearing you'll have 10-15 minutes to present your case:

Use the hearing to enhance your written material.

Determine the objective of your message.

- What do you want the board and taxpayer to take away.

Help your listener.

- Make the connection between what they already know and the information you wish to give them.
- Share your process by describing policies, techniques, strategies, property concepts, and ideas in terminology that they can understand. This doesn't mean you can't use technical or legal terms, but when you do, be sure to use an example.
- An analogy, metaphor, or example can put complex concepts into focus.
Example: Trending = "A rising tide floats all boats".

Select three or four key points of the case.

- These should be critical arguments or facts in support of your position.
An example opening may be: "Today we're going to cover the 3 key points used to accurately appraise this property. First, we will discuss the subject property and its neighborhood; second, the key points of comparison; and finally, how to apply these key points of comparison to the subject property."

Review.

- Reaffirm the important information you want the audience to remember or take away.



Hearings are informal reviews that allow property owners to represent themselves without an attorney.

The Board will begin with an an opening statement to outline the proceedings.

- During the hearing they may ask questions to gather additional information or make clarifications.
 - Generally, a hearing will take 30 minutes unless it's a more complicated appeal.
 - Each party will be given the same amount of time:
 - 10 opening statements/10 present cases/10 closing arguments.
 - Typically, the appellant will go first followed by the respondent throughout the hearing.
- Each party will provide a brief statement outlining the general nature of their case (Opening Statements).
- Parties present their cases, which may include:
 - Testimony,
 - Witnesses, and/or
 - Documentary Evidence:

- Parties present evidence supporting their position and identify their exhibits.
- All evidence should have been supplied to each party before the hearing.
 - If there is new evidence, the opposing party may object, and the board will make a ruling to accept or deny the evidence.
 - If the additional evidence is allowed, it must be provided to the board and the opposing party, then the opposing party has to be allowed to rebut.

- Closing arguments are made followed by the chairperson closing the hearing.



After the hearing, evaluating all evidence & testimony, and applying the correct standard of proof the Board decides on the value of the property.

Board orders:

- State the facts and evidence upon which their decision is based and the reasons for the decision.
- Are usually issued within 45 days of the hearing (mailed to the appellant and the assessor, with a copy retained by the board).
- Parties have 30 days from the mailing date of the order to appeal the board's order to the BTA.
 - Parties are informed of this on the order per WAC 458-14-116(3)(b).

If the property value *decreases*:

- the value becomes effective on the mailing date, even when it's appealed.

If the property value *increases*:

- the value becomes effective 30 days after the mailing date, unless appealed.

Reconsiderations:

- There is currently no law requiring boards to reconsider their determinations when asked to do so by one of the parties to an appeal.
- There is no prohibition in statute or rule for a board to consider other requests or develop their own policy regarding reconsiderations.
- The Department has advised boards that they may choose to accept and review requests for reconsideration.

- Reconsiderations should be processed only to correct an egregious error.
- The best option is for any aggrieved party is to appeal the decision to the BTA.



The BTA hears appeals on a "de novo" basis which means:

- There is no restriction to reviewing only the evidence considered by the county board.
- Either party can provide new arguments, testimony, and evidence not presented to the BOE.

The BTA is bound by the same **standards of review** as county boards.

- The original certified value enjoys the same presumption of correctness before the BTA as at the BOE.
- There is *NO* presumption of correctness on a value ordered by the county board, even if it was recommended by the assessor and adopted by the county board.

Appeals filed with the BTA are:

- Appeals of Board of Equalization Orders.
- Appeals of Determinations made by the Department.
 - Such as reconvene decisions, exemption
- Direct Appeals:
 - Are requested by the taxpayer after they timely file with the BOE,
 - The taxpayer, Assessor and BOE members must agree and sign the direct appeal petition form, and
 - the BTA gets to choose to accept these.
 - Typically “highly valued, disputed property” are generally accepted.

Upon filing a party can choose either a formal or informal appeal with the BTA:

1. Formal Appeal:
 - Usually chosen when parties are conducting discovery, seeking a protective order, or looking for a ruling on an issue of law.
 - Decisions may be appealed to Superior Court

2. Informal Appeal:
 - Most appeals are heard as informal cases ~90%.
 - Usually Pro Se.
 - Decision is final.

Exceptions:

- Parties may challenge the Board on its initial decision within 20 calendar days of the mailing date of the decision.
- The Board reviews the specific factual and legal grounds raised in the exception.
- No new evidence may be presented and the Board is looking to see if the decision rests on supported facts, the correct legal standard, and a reasonable application of the law.



1. Judicial appeals: RCW 84.68.020
 - Suit filed in superior or federal court by June 30th of the following year (non-jury trial)
 - Example: Disagree with a taxing district – mosquito district
 - Taxes paid under protest, all reasons for protest must be made in writing
 - Adverse decisions appealable through the appellate court system
 - Refunds: Bear interest at the short-term U.S. Treasury securities rate
 - WAC 458-18-215 outlines the process
2. Administrative Refunds: RCW 84.69.020
 - Errors in description
 - Clerical errors
 - Computation errors
 - Improvements that do not exist
3. Small Claims: RCW 84.68.110
 - 3 year limitation, filed with the assessor
 - Maximum refundable amount is \$200/year
 - Errors in description
 - Double assessments
 - Manifest errors

