

# Assessor Appeal Quick Reference Guide

## LAWS & RULES

**1. Constitutions (U.S. & WA):** Both guarantee “Due Process.” Washington State’s constitution also requires uniform property taxes.

**Due process elements are:**

1. Notice
2. Opportunity to know the claims of the opposing party
3. The opportunity to be heard (to appear and present evidence)
4. Reasonable time to prepare one’s case
5. Right to an orderly proceeding
6. The right to cross examination and to present rebuttal evidence
7. The right to an impartial tribunal
8. The right to a reasoned decision

**Uniformity** (The State Constitution requires uniformity):

1. Uniform rate (all real property in the jurisdiction shall be taxed by that jurisdiction at the same rate)
2. Uniformity in assessed valuation (all property shall be assessed at the same percentage of its market value).

**2. Statutes:** Laws enacted by the legislature that define BOE/BTA jurisdiction to review or make certain kinds of decisions:

- Valuation Appeals (RCW 84.48.010, 84.40.038)
- Equalization (RCW 84.48.010)
- Certain Exemptions (RCW 84.36.385, 84.36.400)
- Current Use (RCW 84.33 and 84.34)
- Destroyed Property (RCW 84.70.010)
- Government Restrictions (RCW 84.40.039)
- Reconvene (RCW 84.08.060)

**3. Rules and Regulations:** Laws written by administrative agencies to interpret a statutory provision or set of statutes.

**WAC 458-14 should be of interest, in particular:**

- Stipulations ([WAC 458-14-026](#))
- Filing Deadlines & Waivers ([WAC 458-14-056](#))
- Evidence of Value ([WAC 458-14-087](#))

#### 4. Appellate Court Decisions

Only decisions rendered by the Court of Appeals or the Supreme Court are binding.

##### Notable Appellate Court Decisions

*Weyerhaeuser Co. v. Easter*, 126 Wn.2d 370, 894 P.2d 1290 (1995):

- Clarified that once a taxpayer proves a correction to the assessment by clear, cogent and convincing evidence, the taxpayer has met the statutory burden of proof.
- If a taxpayer overcomes the presumption of correctness on a specific value, the standard of proof shifts to preponderance of the evidence for all contested issues related to that value;
- If a taxpayer overcomes the presumption on the assessor's overall approach or technique (invalidates it), the standard of proof shifts to a preponderance of the evidence for all issues.
- The taxpayer retains the burden of persuasion at all times.

*University Village Ltd. Partners v. King County*, 106 Wn. App. 321, 23 P.3d 1090 (2001):

- Total property value is the important factor in determining a property's value for tax purposes. Real property, for tax purposes, is defined as the land itself together with all buildings, structures or improvements or other fixtures of whatsoever kind thereon. This reflects that taxes are imposed on property as a whole, not on individual parts of it.
- Under the uniform taxation clause of the state constitution (Art. VII. Sec. 1), it is the tax paid, not the numerical values of property, that must be uniform.
- In determining constitutional equity, a tax is uniform if: (1) the taxing authority applies an equal tax rate; and (2) the assessment ratios of the properties at issue are equal.

#### 5. Other Sources of Legal Authority:

- Superior Court Decisions
- [BTA Decisions](#)
- [Attorney General Opinions \(AGO\)](#)
- [Property Tax Advisories \(PTA\)](#)

# STANDARD OF REVIEW

**1. Presumption of Correctness** – RCW 84.40.0301, applies to the assessor's *original* value or manifest error corrections completed prior to hearing.

**2. Burden of Proof** – The presumption of correctness is not a defense against any correction indicated by clear, cogent, and convincing evidence.

## **Clear, Cogent, and Convincing – Standard of proof for almost all valuation appeals**

1. Standard: highly probable and a firm belief in its factuality, this is a greater standard than more probable than not.
2. Facts are clear, positive, and unequivocal in their implication.
3. Board must decide: Has the taxpayer provided “clear, cogent, and convincing evidence” to prove the assessor’s valuation or methodology is wrong?
4. Applicable in valuation appeals when the original value has the Presumption of Correctness.

## **By a Preponderance – Standard of proof when values are corrected, valuation methods are invalidated, and in non-valuation appeals.**

1. Standard: the greater weight or amount of evidence. More probable than not.
2. Picture a scale. Both sides fill one side with all of their evidence. Whichever way the scale tips is the side that wins.
3. Standard shifts to preponderance if you recommend a different value to the BOE/BTA, settlement offers/proposed stipulations do not shift the standard.

**3. Evidence:** The means by which a fact is established or disproved. Relevant evidence makes facts more or less probable when used as part of a decision of the Board.

The Board considers the **relevance** of testimony and ANY evidence presented:

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

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

*Arguments are an attempt at persuasion, not evidence.*

Obtaining independent information from third parties without full disclosure to the primary parties (taxpayer, representative of assessor, ect.) should be avoided,

The Board *must consider all these things* to determine if the assessor’s presumption of correctness has been overcome by *clear, cogent, and convincing* evidence (see above for exceptions).

# HEARING DEMEANOR

## **Before the Hearing:**

- Prepare your argument,
- Review any taxpayer evidence,
- Review any applicable laws or rules if necessary to explain (exemptions, current use, oddball appeals),
- Make notes about issues or questions you think the Board may have,

## **During the Hearing:**

- Be flexible whenever possible,
- Expect the unexpected issue,
- Do not direct the Board,
- If you recommend a reduced value, explain the decision
- Make sure the Board has enough facts to decide the issue,

## **After the Hearing:**

- If more information is needed, the Board will contact everyone for a new hearing,
- You should receive a copy of the decision within 45 days of the hearing,

### **Tips for hearings:**

Try to address any specific issues the taxpayer brings up if possible.

Minimize exchanges with the taxpayer, you are there to convince the BOARD.

Make your best points early.

If you have objections to the process or procedure, make them at the beginning of the hearing.

### **Respectful Behavior:**

- Use good body language,
- Don't appear impatient or frustrated with the process or individuals,
- Don't make jokes or light of the taxpayer's concerns or Board questions,
- Don't say anything you wouldn't want repeated on the local news,

### **Additional tips:**

Avoid addressing anyone by their first name and maintain a level of respect for the Board as a tribunal.

Show taxpayers the same level of respect and formality.

You are the expert, Preparation = Credibility.

### **When reviewing an order:**

Decide if the conclusion is reasonable (even if you don't agree).

Appeals with the BTA must be filed within 30 days (electronic filings must be RECEIVED by 5PM).

Never disparage the other party, the BOE, or any part of government in your filings.

# QUICK REFERENCES

## 1. Refunds and Judicial Appeals

### *Payment of Taxes Under Protest:*

- See WAC 458-18-215,
- Filed by June 30<sup>th</sup> of the following year,
- Must be in writing and filed with the Treasurer
- [DOR Publication](#)

### *Administrative refunds:*

- See RCW 84.69.020,
- For clerical, description, or calculation errors
- [DOR Form](#)

### *Small Claims:*

- See RCW 84.68.110-150,
- Maximum refund of \$200,
- Petitions filed with the Assessor,

## 2. Options to adjust values after the roll is certified:

- Manifest error: does not involve revaluation of property (quantifiable vs. subjective).
- Stipulation: include the information used to establish the value on form; *may not use* in reconvene appeals.
- Destroyed Property: *only* the percentage of reduction in value is appealable.
- Exemption status: may be initiated *at any time* by the assessor
- WAC 458-14-025: must be made when applicable.

## 3. Administrative Appeals

### *Board of Tax Appeals:*

- Formal: [WAC 456-09](#)
- Informal: [WAC 456-10](#)
- De novo hearings mean the BOE decision doesn't influence the BTA appeal,
- Same standard of review as BOE,
- Appeal deadline is always 30 days from BOE order mailing date (elect formal vs. informal upon filing),
- Motions are used to request action from the Board,
- [BTA Website](#) and [FAQ's](#)
- [BTA Appeal Publication](#)

### *Boards of Equalization:*

- [Jurisdiction](#) is specifically limited,
- Value increases take effect in 30 days; decreases are effective immediately,
- Non-valuation appeals are ALWAYS preponderance,
- All appeal filing questions to BOE clerk (do not give advice on appeal options),
- Good cause waiver decisions are final.
- Valuation information is due within 60 days of request (petition form).
- [DOR Appeal Publication](#)

Additional tips for untimely evidence presented at hearing (this is handled at the BOE discretion):

1. If you or the taxpayer don't raise an objection to the late information: the hearing proceeds and the evidence is accepted by the Board.
2. If you or the taxpayer objects:
  - The evidence may be rejected/not considered, OR
  - The Board may postpone the hearing to allow the parties to review the new information,
  - The hearing may continue but the Board will allow the other party time to review and rebut the "untimely" evidence after the hearing has been concluded (generally about a week or two).