



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

January 10, 2022

RECEIVED  
NOV 11 2022

Washington State Board of Tax Appeals  
Post Office Box 40915  
Olympia, Washington 98504-0915

STATE OF WASHINGTON  
BOARD OF TAX APPEALS

**Response to Amicus Curiae request under WAC 456-10-507(4)**  
**Appeal for Bruce and Bonnie McCloskey**  
**Informal Docket No. 99003**  
**Parcel No. 36372**

Dear Mr. Randazzo,

In response to the Board of Tax Appeals' order requesting a brief of amicus curiae from the Department of Revenue (Department), the Department submits this letter. The Board's order was unclear on how the Department's interests were deemed to be substantially affected by this proceeding as provided in the Board's rule WAC 456-10-507(4).

With respect to the Department's opinion on jurisdiction, the scope of the Board's authority to decide disputes include hearing appeals from Boards of Equalization (BOE) actions. *See* RCW 84.08.130; *see also* RCW 84.34.108(3). Accordingly, the Board may hear appeals from BOE action on the issue of whether it may grant the taxpayers relief from the imposition of taxes, penalties, and interest on the portion of land being used as a residence, even though the taxpayers are not contesting the Assessor's removal of that portion.

The Department notes, however, there does not appear to be any law that allows a taxpayer to obtain greater remedies or relief from the Board of Tax Appeals than what was available to a BOE. The authority of BOEs under RCW 84.34 is limited to appeals contesting the removal from current use classification, denial of application, and appeal of the new assessed value upon removal. No statutory authority provides a BOE with the authority to relieve taxpayers of taxes, penalties, and interest. In contrast, the Legislature has mandated these taxes, fees and interest be imposed under RCW 84.34.108(4) when property is properly removed from current use classification with limited exceptions for the circumstances described in RCW 84.34.020(f).

Accordingly, and consistent with longstanding practice, the Department advises boards of equalization that they do not have the authority to issue orders relieving taxpayers of additional taxes, penalties, or interest. In this case, the Department advised the BOE that their determination to overrule the imposition of taxes, interest, and penalties exceeded the limits of their authority and of their obligation to correct and reissue a decision to preserve any appeal rights of the parties.

We hope this has been helpful.

DEPARTMENT OF REVENUE  
PROPERTY TAX DIVISION

Rikki Bland  
Appeals and Levies Specialist

Property Tax Division

P O Box 47471 ♦ Olympia, Washington 98504-7471 ♦ (360) 534-1400 ♦ Fax (360) 534-1380

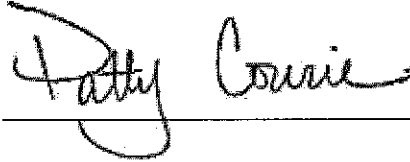
CERTIFICATE OF MAILING

I, Patty Courie, certify that on January 10, 2022, I personally forwarded, by United States mail, a true and correct copy of the attached document to the following:

THE HONORABLE PAM RUSHTON  
CLALLAM COUNTY ASSESSOR  
223 EAST FOURTH STREET, SUITE #2  
PORT ANGELES WA 98362-3015

BRUCE & BONNIE MCCLOSKEY  
5883 OLD OLYMPIC HWY  
SEQUIM WA 98382

KERI LAMB  
BOARD OF TAX APPEALS  
PO BOX 40915  
OLYMPIA WA 98504-0915

  
\_\_\_\_\_